

**REDISTRICTING** *for*  
**COMMUNITY EMPOWERMENT**  
*A Legal How-To Guide*

2021



**The ACLU of Northern California** and **the ACLU of Southern California** work to protect and advance civil rights and liberties, including the right to vote and the right to fair representation. We strive for a democracy that is just and equal. We seek to ensure that all communities, including people of color, people impacted by the criminal legal system, Californians with limited-English proficiency, people with disabilities, and other historically underrepresented communities have meaningful and fair access to engage in our democracy.

**California Common Cause** is dedicated to building a democracy that includes everyone. A state affiliate of the nonpartisan nonprofit organization Common Cause, California Common Cause works on voting rights, redistricting, government transparency, and money in politics reforms to end structural inequities in our state and local democracies and to create governments at all levels that are accountable to and reflective of California's communities.

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## OVERVIEW

Redistricting is the process of redrawing the district maps used by political jurisdictions to elect public officials. This process takes place every ten years following each decennial census and affects all government bodies that use district elections including the U.S. House of Representatives, state legislatures, county boards of supervisors, city councils, school boards, and special districts (e.g., water and health care districts). This year, hundreds of government bodies throughout the state will begin the process of redrawing their lines ahead of the 2022 elections.

District lines have enormous power. Decennial redistricting ensures that each district has about the same population so that each person is equally represented in government. Redistricting can also keep people with common interests, cultures, languages, and histories bundled together so they can effectively advocate for themselves and make their voices heard in local affairs. Where lines are drawn may determine who wins an election and, in turn, which communities have representation and what laws or policies are passed. These lines will have an impact for at least the next ten years, and many times inform where lines will be drawn in the decades that follow.

Unfortunately, in jurisdictions across the United States, district lines have been and continue to be drawn in a way that splits communities apart, robbing them of their voice and making it harder to elect a representative responsive to their needs. District lines have also been used to pack communities together, so they have influence in fewer districts than their size merits. To prevent these sorts of abuses and manipulations, there are federal and state laws that provide communities with protections in the redistricting process. In this Guide, we discuss those protections and give an overview of local redistricting processes to help your organization best advocate for the communities you serve.

*Part I:*

# THE RULES OF REDISTRICTING

There are many factors that go into redistricting. The following criteria, however, guide all line drawing:

- **Constitutional Mandate.** Districts *must* be substantially equal in population.
- **Federal Mandate.** District maps *must* comply with Section 2 of the federal Voting Rights Act (VRA).
- **Traditional Redistricting Principles.** Depending on the jurisdiction, complying with some of these principles may be required.

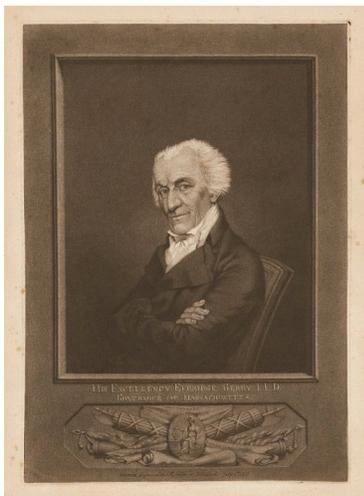
Although the constitutional and federal mandates take priority, we first discuss traditional redistricting principles because these concepts strongly inform other redistricting concepts.

## Traditional Redistricting Principles

### REMEMBER,

it is mandatory for most cities and counties to comply with traditional redistricting principles, and they are also prohibited from adopting district boundaries for the purpose of favoring or discriminating against a political party.<sup>5</sup>

**GERRYMANDERING** refers to the manipulation of district lines to improperly affect political power. Lines can be gerrymandered to favor certain political parties, racial groups, or incumbents. Conversely, lines can be gerrymandered to limit the opportunities of a political party, to dilute the vote of minority groups, or to draw out an incumbent from their existing district.



**ELBRIDGE GERRY (NATIONAL PORTRAIT GALLERY, SMITHSONIAN INSTITUTION)**

The term “gerrymander” was first used in 1812 to describe a district map signed into law by Massachusetts Governor Elbridge Gerry. The map was improperly drawn to protect partisan interests, resulting in one district that resembled a salamander.

State and federal law recognize a set of general criteria that guide redistricting, often referred to as “traditional redistricting principles.”<sup>1</sup> In California, state law requires that counties<sup>2</sup> and cities<sup>3</sup> adopt districts using the following criteria in this order of priority:

1. Contiguity;
2. Maintaining neighborhoods and communities of interest;
3. Minimizing the division of a city or census designated place (for counties);
4. Following natural and artificial boundaries; and
5. Geographical compactness (only where it does not conflict with preceding criteria).<sup>4</sup>

These principles lie at the heart of the redistricting process and serve important democratic purposes. For example, ensuring contiguity and compactness in district maps helps avoid the practice of **gerrymandering** because it limits the opportunities line drawers have to improperly manipulate lines. Contiguity and compactness also help to bind communities together and in turn help enable effective representation.

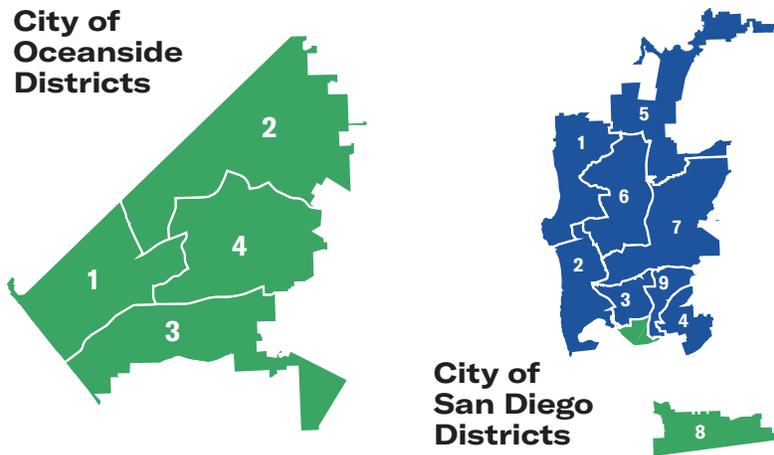
Contrary to the law for cities and counties, no state laws explicitly require county boards of education, school districts, community college districts, and special districts to follow traditional redistricting principles. However, because these criteria are meant to help line drawers draft fair and equitable maps, it is a best practice for all line drawers, whether required by statute or not, to follow traditional redistricting criteria closely.

## TIP

If your jurisdiction is refusing to adhere to traditional redistricting principles, we recommend that you provide public comment stating that evidence that line drawers followed traditional redistricting principles often forms part of a jurisdiction's defense in voting rights cases.<sup>6</sup>

Below we highlight three redistricting principles that are key to ensuring the drawing of fair maps: contiguity, communities of interest, and compactness.

- **Contiguity.** The Supreme Court has identified contiguity as a redistricting principle.<sup>7,8</sup> Contiguity is simple to ensure. A district is contiguous if its perimeter can be traced in one, unbroken line. A district consisting of two or more unconnected areas is not contiguous. Unless your jurisdiction is itself noncontiguous (e.g., the City of San Diego), all districts in your jurisdiction should be contiguous.



The City of Oceanside is **contiguous**. All four of its districts are contiguous, consistent with state law. The City of San Diego is **noncontiguous**. For this reason, District 8 had to be drawn in a noncontiguous manner.

- **Communities of Interest.** The Supreme Court recognizes keeping communities of interest whole as a key part of the map-drawing process.<sup>9,10</sup> A jurisdiction’s communities of interest are its overlapping sets of neighborhoods, networks, and groups that share interests, priorities, views, cultures, histories, languages, and values. The following is a non-exhaustive list of elements that help define communities of interest:
  - Shared interests in issues such as schools, housing, transit, health, and environmental conditions;
  - Common social and civic networks, including churches, temples, mosques, homeowner associations, and community centers, and shared use of community spaces, like parks and shopping centers;
  - **Racial** and **ethnic** compositions, cultural identities, and language;
  - Similar socio-economic factors such as income and education levels;
  - Other shared political boundary lines, such as shared school districts; and
  - Natural and man-made features, including streets, highways, canals, hills, etc.

A note about communities of interest and **RACE** and **ETHNICITY**. Race and ethnicity are one of many factors that can help define your community of interest. However, they cannot be the only factors. It is possible for a group of individuals to share race in common but have different priorities and concerns, interact infrequently, or not share similar socio-economic backgrounds. For that reason, these individuals likely would not constitute a community of interest.

Because of this, you should always use various types of factors to describe your community of interest. It can include the race and ethnicity of your community if that is a shared characteristic, but your testimony should also highlight, where relevant, shared interests, common social and civic networks, similar socio-economic factors, and shared neighborhoods and/or political boundaries.

We discuss the role of race in redistricting in more detail when we cover the federal Voting Rights Act below.

There is no single, simple, concrete definition of a “community of interest.” In practice, a holistic picture of the communities of interest in the jurisdiction takes shape only through extensive public testimony from community members. To make sure they get the district lines right, line drawers need to schedule as many workshops and public hearings as possible to hear that testimony.

- **Compactness.** A compact district is one where people within the district live relatively near each other.<sup>11</sup> Most courts have applied an intuitive “eyeball” test to determine if a district is compact.<sup>12</sup> Some courts have also looked at mathematical measures that, for example, compute the ratio of the area of the district to the area of the minimum enclosing circle for the district.<sup>13</sup> Although districts that are shaped closer to a circle are technically more compact than districts with tendrils, line drawers do not need to prioritize simple geometric shapes.<sup>14</sup> Instead, line drawers must prioritize higher ranked criteria, such as a jurisdiction’s communities of interest and compliance with the Constitution and the VRA, both of which are discussed later in this Guide.

To illustrate what is and is not acceptably compact for purposes of redistricting, attached in Appendix A are examples of districts that courts have found are or are not compact.

## Substantial Equality of Population

All districts within a political jurisdiction must have “substantial equality of population” to ensure that each person is equally represented in government. For example, if a jurisdiction has five districts and a population of 50,000, the ideal district size is 10,000 people. Federal and state law require *substantial* equality of population because drawing districts of *exactly* equal populations is difficult and often at odds with the other goals of a line-drawing body. Drawing district lines that keep communities of interest intact, that reflect public testimony, and that are contiguous and reasonably compact may result in districts that have slightly different populations.

### CALCULATING SUBSTANTIAL EQUALITY OF POPULATION

Total population:	<b>50,000</b>
Ideal district population:	<b>10,000</b>
	(50,000 ÷ 5 districts)

DISTRICT	POPULATION	DEVIATION
1	10,300	<b>+3.0%</b>
2	10,050	<b>+0.5%</b>
3	10,350	<b>+3.5%</b>
4	9,850	<b>-1.5%</b>
5	9,450	<b>-5.5%</b>

Total deviation:	<b>9.0%</b>
	<b>(3.5% + 5.5%)</b>

Note: You get a total deviation of 9% by adding the absolute value of the deviation of the largest district (**3.5%**) with the absolute value of the deviation of the smallest district (**5.5%**).

How much of a departure, or deviation, from the ideal district population size is allowed between districts? For state and local redistricting (i.e., anything other than congressional redistricting), the Supreme Court has stated that a difference between the largest and smallest district (total deviation) of up to ten percent will be assumed to be constitutional unless proven otherwise.<sup>17</sup> Maps with total deviations above ten percent can be justified only in rare circumstances.<sup>18</sup>

Note that the appropriate measure of population when considering substantial equality of population is total population, not alternative measures like the population of voters or the citizen voting-age population (CVAP).<sup>19,20</sup> This reflects the principle that a legislative body, like a city council or the governing board of a school district, represents all of a jurisdiction’s residents, not merely those who are eligible to vote.

## Requirements of the Federal Voting Rights Act of 1965

We use the term “**MINORITY**” in this Guide because it tracks the language used in relevant statutes and case law. We recognize that Black, Brown, Indigenous, and other communities of color have been referred to as minorities despite, in some cases, not being numerical minorities. We also recognize the term minority carries with it an incorrect connotation regarding a lack of socio-economic and political power.

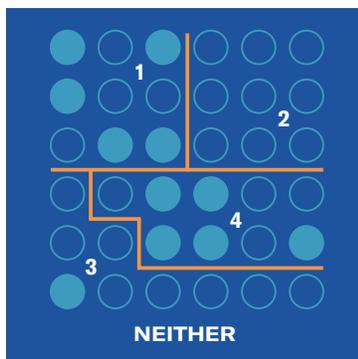
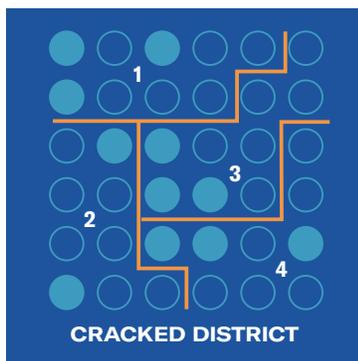
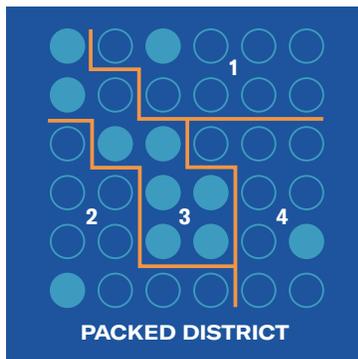
The VRA stands for the idea that every voter should have a chance to cast a meaningful ballot. To achieve this goal, Section 2 of the VRA prohibits voting practices or procedures that discriminate on the basis of race, ethnicity, or language.<sup>21</sup> This means, among other things, that line drawers cannot intentionally or unintentionally create maps that dilute the voting power of racial, ethnic, and language **minorities**.

Because it is impossible to ensure maps do not discriminate on the basis of race or ethnicity without looking at race or ethnicity, the Supreme Court has declared that districting may be performed “with consciousness of race.”<sup>22</sup> At the same time, the Supreme Court does not permit racial gerrymanders—maps where race is the dominant and controlling factor that line drawers consider when they place residents within or outside a district.<sup>23</sup> To avoid a racially gerrymandered map, line drawers must seek to keep politically cohesive communities of interest together that share similarities in addition to their race or ethnicity.

Below we discuss the ways in which maps have been drawn to dilute the voting power of minority groups and how line drawers can avoid creating these types of maps.

## Packing and Cracking

Various redistricting techniques have historically been used, and are still used, to dilute the political power of racial, ethnic, and language minorities. The two most common techniques are “packing” and “cracking.”



**% of Minority Residents**

	D1	D2	D3	D4
<b>PACKING</b>	11%	11%	<b>89%</b>	11%
<b>CRACKING</b>	33%	22%	33%	33%
<b>NEITHER</b>	<b>56%</b>	0%	11%	<b>56%</b>

Majority-minority districts are highlighted in orange.

**Packing** refers to concentrating as many individuals from a minority group as possible in as few districts as possible to limit the total number of districts in which they have influence. For example, if a community could be 55 percent of the voting age population in two different districts but are concentrated together such that they are 80 percent of just one district and 15 percent of another, “packing” has occurred. Now, instead of the minority group being able to elect a candidate of their choice in two districts, they only have enough political power to elect a candidate of their choice in one district.

**Cracking** refers to fragmenting concentrations of minority populations among multiple districts to ensure that they have no effective voice in any one district. For example, if a community could be 60 percent of one district but is instead split so that it is 30 percent of two different districts, “cracking” has occurred. In other words, instead of having the political power to elect a candidate of their choice in one district, the minority group has been split up in such a way so that they do not have enough political power to elect a person of their choosing in any district.

The examples to the left demonstrate three ways a line drawer could map four districts within the same jurisdiction. In this simplified hypothetical, minority voters are represented by light blue dots. The first example “packs” light blue voters into district 3. The second “cracks” them into all four districts. The third example does neither, thus avoiding minority vote dilution. To prevent packing, cracking, and other discrimination in our elections systems,

the VRA prohibits district maps that unlawfully dilute the voting power of any racial, ethnic, or language minority group.<sup>24</sup> Map drawers do not need to intend to discriminate against minority voters for a map to be found in violation of Section 2 of the VRA. It is enough that a map results in minority vote dilution for it to be found unlawful.

### **Drawing a District Map that Complies with the VRA**

The VRA aims to ensure that the vote of minority groups is not diluted as a result of the manner in which district lines are drawn. To avoid this form of vote dilution (and violating Section 2 of the VRA), line drawers must create district maps with one or more “majority-minority” districts, or districts where a politically cohesive minority group has an effective opportunity to elect candidates of choice, when:

- the minority group is large enough to constitute the majority of the voting population in a geographically compact district;
- the minority group is politically cohesive, and the majority group votes as a bloc to usually defeat the minority group’s preferred candidates; and,
- looking at the totality of the circumstances, the minority group has less of an opportunity to participate in the electoral process and elect candidates of their choice than the majority group.<sup>25</sup>

To determine whether the VRA requires one or more majority-minority districts in your jurisdiction, line drawers should ask themselves the following questions during the redistricting process:

#### **TIP**

You can speak to this question by providing examples of the issues over which the minority group has coalesced. For example, if the minority group recently organized to oppose an anti-immigrant ordinance or to support a particular candidate, you can highlight this as evidence that the minority group is politically cohesive.

- **Is the jurisdiction home to a politically cohesive minority group?**

Here, line drawers must determine whether the minority group shares a preference for certain candidates or ballot measures. Line drawers should look to indicators such as past election results and public testimony to assess whether a minority group is politically cohesive.

## TIP

Line drawers should look to public testimony and conduct what is known as “racially polarized voting analysis” to answer this question. A racially polarized voting analysis looks at past election results and, using various statistical methods, determines whether the results show that the minority group votes cohesively and that the majority group also votes cohesively to usually defeat the minority group’s preferred candidates.

- **Has the minority group had difficulty electing candidates of choice because the majority group votes opposite to the minority group’s preferences?**

If the majority group is consistently voting contrary to the minority group, it may be difficult, if not impossible, for the minority group to successfully vote their preferences depending on how the lines are drawn.

Think back to “cracking.” If a cohesive minority group makes up 60 percent of a district, they have an opportunity to successfully vote their preferences in such a district. But if the group is split up between two districts, such that they only make up 30 percent of each district, they will never be able to successfully vote their preferences if the majority group that makes up 70 percent of each district consistently votes opposite of the minority group’s preferences.

- **Is the minority group large enough to constitute a majority in a geographically compact voting district?**

Section 2 of the VRA protects only the ability of a minority group to elect candidates of their choice, not the ability to influence the outcome of an election.<sup>26</sup> The Supreme Court has held that, to show that a minority group can elect a candidate of choice, they must constitute more than 50 percent of a hypothetical voting district. This is a bright-line rule to help assess whether the VRA mandates majority-minority districts in your jurisdiction. In practice, there are instances where a politically cohesive group can elect a candidate of choice even if they constitute less than 50 percent of a voting district (see crossover voting and minority coalition voting, discussed below), and instances where they cannot elect a candidate of choice even if they constitute more than 50 percent of a voting district (e.g., because of low voter registration rates or voter suppression tactics). Notwithstanding this reality, the VRA’s Section 2 requirements kick-in only if this 50 percent threshold is met in a hypothetical district.

**SENATE FACTORS  
INCLUDE, BUT ARE NOT  
LIMITED TO THE:**

1. History of official voting-related discrimination;
2. Existence of racially polarized voting;
3. Extent to which the jurisdiction has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group;
4. Exclusion of members of the minority group from candidate slating processes;
5. Extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health;
6. Use of overt or subtle racial appeals in political campaigns; and
7. Extent to which members of the minority group have been elected to public office in the jurisdiction.

**TIP**

You can speak to the Senate Factors by presenting testimony about historical, structural, and overt racism in your jurisdiction. If your jurisdiction previously had an at-large system of voting, for example, you could highlight this as part of your testimony because such systems tend to enhance the opportunity for discrimination against minority groups.<sup>29</sup> You can also point to socio-economic data and real-life experiences to show that the minority group continues to bear the effects of past discrimination.

In making this numerical assessment, line drawers must look at citizen voting age population numbers. We discuss this measure of population in the next section.

- **Does the minority group have less of an opportunity to participate in the electoral process and elect candidates of their choice?**

Line drawers must use answers to the questions listed above plus a non-exhaustive list of factors, known as the “Senate Factors,” to determine whether, given the “totality of the circumstances,” the minority group has less of an opportunity than other voters to participate in the electoral process and to elect representatives of their choice.<sup>27</sup> The Senate Factors include questions such as whether the minority group has faced discrimination in voting or other areas and whether the group continues to bear the effects of that discrimination.<sup>28</sup>

If the responses to the questions above are “yes,” line drawers **must** create one or several districts where the minority community has a real or effective opportunity to elect candidates of their choice. Depending on the community, a real or effective opportunity may mean a district where the minority group is well above 50 percent of the district, to account for issues such as voter disenfranchisement or low voter registration rates, or slightly under 50 percent, if there are enough coalition or crossover votes to allow the minority group to elect candidates of choice.

## **The Population Measure Used for Drawing a Majority-minority District**

As discussed above, different measures of population exist. When considering the substantial equality of population requirement mandated by the Constitution, the total population of each district is used. However, the population measure that is used to determine whether a racial, ethnic, or language minority can be the majority of a voting district is not the total population. Instead, the measure used is the “citizen voting age population,” or “CVAP,” meaning the population of the district’s residents who are United States citizens and 18 years of age or older.<sup>30</sup> This is because Section 2 of the VRA specifically seeks to prevent discrimination against voters, while the Constitution seeks to ensure equal representation of all persons within a jurisdiction. Essentially, CVAP is meant to represent registered voters plus eligible, but unregistered individuals.

The demographer hired by your jurisdiction should be able to provide extensive data on the citizen voting age population in the jurisdiction to analyze the types of districts that can be drawn and to ensure compliance with Section 2 of the VRA.

## Empowering Historically Disenfranchised Communities

A jurisdiction can use various kinds of districts to empower historically disenfranchised communities. The appropriate districts for any particular jurisdiction depend on the size of the communities in that jurisdiction, how spread out or compact they are, how politically cohesive they are, and the testimony from community members indicating their common interests and desires for their particular districts. There are four types of districts that help ensure that racial, ethnic, and language minorities are afforded an equal opportunity to participate in the jurisdiction's elections:

- **Majority-minority district.** Discussed above, a majority-minority district is a district where, among other things, “a minority group composes a numerical, *working* majority” of the district.<sup>31</sup> A key element of these districts is that the minority group is large enough to have a real or effective opportunity to elect candidates of choice.
- **Crossover district.** A district is known as a “crossover district” when a politically cohesive racial, ethnic, or language minority is not large enough to compose the majority of a district but is large enough that when the minority's votes are combined with those of similarly minded voters from the majority, the preferred candidates of the minority have an opportunity to win. The Supreme Court has held that the VRA does not mandate the creation of crossover districts but that jurisdictions “that wish to draw crossover districts are free to do so.”<sup>32</sup>
- **Minority coalition district.** A district where two or more politically cohesive racial, ethnic, or language minority groups are combined to form a district where they have an effective opportunity to elect candidates of their choice.

Although the Supreme Court has not addressed whether the VRA requires the creation of coalition districts, a majority of federal circuit courts that have considered the question have held that coalition districts must be created when two or more minority groups are large enough to together form 50 percent of a geographically compact district, are politically cohesive, have experienced difficulty electing candidates of their choice, and have experienced discrimination historically.<sup>33</sup> Importantly, the Ninth Circuit has implicitly recognized that coalition districts are protected under the VRA,<sup>34</sup> and the California Supreme Court has written approvingly of coalition districts.<sup>35</sup>

- **Influence district.** A district where a politically cohesive racial, ethnic, or language minority is not large enough to compose the majority of a district but is still substantial enough in size to influence election outcomes in that district. While the Supreme Court has made clear that the VRA does not require influence districts,<sup>36</sup> just as with crossover districts, nothing prevents line drawers from creating influence districts if they so choose. The California Supreme Court has written approvingly of influence districts.<sup>37</sup>

# *Part II:* **THE REDISTRICTING PROCESS**

California law provides a number of general requirements for the redistricting processes of most counties, cities, county boards of education, school districts, community college districts, and special districts and provides specific requirements for Los Angeles County<sup>38</sup> and San Diego County.<sup>39</sup> Below we discuss general redistricting process requirements for counties, cities, county boards of education, school districts, community college districts, and special districts. Note, however, that your jurisdiction may have its own, local requirements.

Starting in the spring of 2021, your organization should research jurisdiction-specific processes and raise questions about redistricting during public meetings.

## Redistricting Commissions

### 3 TYPES OF REDISTRICTING COMMISSIONS:

- **ADVISORY REDISTRICTING COMMISSIONS** only have the power to recommend maps to the legislative body.<sup>42</sup>
- **HYBRID REDISTRICTING COMMISSIONS** recommend two or more maps to the legislative body and the legislative body chooses among those maps.<sup>43</sup>
- **INDEPENDENT REDISTRICTING COMMISSIONS** have the power to adopt maps without any input from the legislative body.<sup>44</sup>

**HYBRID** and **INDEPENDENT REDISTRICTING COMMISSIONS** assume all hearing and posting responsibilities that would otherwise fall on the legislative body and are subject to the Ralph M. Brown Act (California's open meetings law for local jurisdictions), the Public Records Act, and the same redistricting requirements that apply to legislative bodies.<sup>45</sup>

**ADVISORY REDISTRICTING COMMISSIONS** are subject to the Brown Act.<sup>46</sup>

Legislative bodies (e.g., county boards of supervisors, city councils, and governing boards of school districts) have historically drawn the lines during decennial redistricting, and this remains the practice today in a majority of jurisdictions. State law, however, authorizes counties, general law cities, school districts, community college districts, and special districts to create redistricting commissions.<sup>40</sup> Charter cities have independent home rule authority to create redistricting commissions and are not bound by state law requirements for commissions.<sup>41</sup>

State law imposes restrictions on who can serve on advisory, hybrid, and independent redistricting commissions and on the appointment process for hybrid and independent commissions.<sup>47</sup>

Redistricting commissions can improve public participation and help depoliticize the redistricting process. As a result, they often increase public trust in the redistricting process and the resulting district map. Commissions, particularly independent commissions, are a recommended best practice by good government organizations. If you would like your jurisdiction to set up an advisory or independent redistricting commission, your organization should push for that during and outside of public meetings in the spring of 2021 to ensure that the seated commission has sufficient time to plan a redistricting process. For a list of jurisdictions that have created independent commissions, best practices compilations, and an ordinance generator, visit [www.localredistricting.org](http://www.localredistricting.org).

## Cities and Counties

**LOS ANGELES COUNTY** and **SAN DIEGO COUNTY** have their own rules for their redistricting processes. You can learn more about San Diego County's redistricting process by visiting its [commission's website](#) or reviewing sections 21550 to 21553 of the California Elections Code. You can learn more about Los Angeles County's redistricting process by visiting its [commission's website](#) or reviewing sections 21530 to 21535 of the California Elections Code.

In 2019 and 2020, California Common Cause cosponsored AB 849 (Bonta) and AB 1276 (Bonta), respectively, to put in place new requirements for city and county redistricting that maximize public participation, increase transparency, and protect communities in the line-drawing process. These laws apply to all counties (other than **Los Angeles** and **San Diego Counties**, which have their own rules in state law), general law cities, and charter cities.<sup>48</sup> To ensure fair representation and full compliance with these new state laws, line drawers must conduct a robust public engagement process that offers maximum accessibility for California's language minority populations, people with disabilities, other historically underrepresented communities, and the public at large.

### Map Adoption Deadlines

Currently, the deadline for counties and cities to adopt maps is December 15, 2021 if they have June 7, 2022 primaries, and April 17, 2022 if their next regular election is during the November 2022 general.<sup>49</sup> However, because the Census Bureau will not release redistricting data until late summer or early fall 2021, these map adoption and other redistricting deadlines may change to ensure there is sufficient time for public participation in the redistricting process. To keep up with any potential changes, you can go to California Common Cause's webpage on [resources](#).

## **Step One: Redistricting Webpage**

Cities and counties are required to create a webpage dedicated to local redistricting.<sup>50</sup> The webpage must include, in all legally required languages, an explanation of the redistricting process and the process for giving public comment.<sup>51</sup> The Secretary of State (SoS) provided [templates](#) in 10 languages to help local jurisdictions meet this requirement, although cities and counties can also create their own materials. The webpage must also include, or link to, the following:

- Procedures for the public to testify during a public hearing or to submit written testimony directly to the line drawers, in English and all legally required languages;
- a calendar of all public hearing and workshop dates;
- the notice and agenda for each public hearing and workshop;
- a recording or written summary of each redistricting hearing and workshop;
- each draft map considered by the line drawers; and
- the final map that is adopted.<sup>52</sup>

## **Step Two: Public Engagement**

### Outreach and Education

The line drawers in your jurisdiction must engage in a thorough public outreach process. State law requires cities and counties to encourage residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting process.<sup>53</sup> To do this, local governments must do public outreach about redistricting to local media organizations and to good government, civil rights, civic engagement, and community groups or organizations that are active in the jurisdiction, including those serving limited-English-proficient communities, the disability community, and other historically underrepresented communities.<sup>54</sup>

## TIP

There are many ways in which your organization can help with public outreach and education. For example, you can offer to present to the line drawers about recommendations for the best ways to engage your community or provide the line drawers with a list of community organizations they should engage and educate. You can also encourage the line drawers to identify a staff member for the public to contact should they experience technical problems, have questions about the redistricting process, or have meeting accommodation requests. Finally, you can encourage your jurisdiction to partner with line drawers for other jurisdictions in the region to educate and notify residents of opportunities to engage in redistricting. This will maximize city and county resources, streamline information, and minimize confusion for residents.

State law also requires jurisdictions to create an interested persons sign-up on the jurisdiction's webpage.<sup>55</sup> Ideally, this outreach should occur well before redistricting hearings begin.

Cities and counties with substantial limited-English-proficient populations must also translate certain redistricting materials and provide live interpretation at redistricting hearings upon a timely request.<sup>56</sup> The applicable languages for counties are the same languages already required under Section 203 of the VRA. When available, the SoS will identify and post the applicable languages for each city [here](#). You should request that your county also translate materials and offer live interpretation in the languages identified by the SoS for cities because it may be a more expansive list.

## Public Testimony

Jurisdictions must accept redistricting testimony or draft maps in writing and electronically.<sup>57</sup> To maximize transparency, jurisdictions should consider posting all submitted testimony on their dedicated webpage and, when received in advance of a redistricting hearing, public testimony and proposed maps should be included in the agenda packet for that hearing.

Further, and consistent with the Brown Act, jurisdictions must allow members of the public to provide live comment during redistricting hearings and workshops.<sup>58</sup> Jurisdictions must record or prepare a written summary of line drawer deliberations and public comment.<sup>59</sup> Note that if your jurisdiction limits the amount of time for public comment the Brown Act requires that limited-English-proficient speakers using consecutive, as opposed to simultaneous, interpretation be allotted at least twice that time.<sup>60</sup> For example, if your jurisdiction limits public comment to two minutes, non-English speakers have four minutes to provide comment if the interpretation is consecutive.

## TIP

Written and live testimony is your community's opportunity to inform line drawers about communities of interest in your region and to advocate for the way in which lines should be drawn. If your community shares neighborhoods, interests, history, language, and/or values, this is your chance to define your community to the line drawers to ensure that it is kept intact over one or several districts, depending on the size of your community.

Visit [commoncause.org/localredistricting2021](https://www.commoncause.org/localredistricting2021) for a template on how to give community of interest testimony, along with a wide range of other resources and tools. You can also refer to the section on communities of interest in Part I for ideas on how to best describe your community of interest. If your community is politically cohesive and has faced historical discrimination on account of race, ethnicity, or language, this is also an opportunity to share testimony to make the case for the creation of a majority-minority, crossover, coalition, or influence district.

## TIP

You should encourage your local jurisdiction to strive to offer far more than these four hearings, advertise them widely, and to make these hearings as accessible as possible.

This is also an opportunity for your community to begin defining the physical boundaries of the community. This can be done through submitting draft maps, draft districts, or draft community of interest maps (tracing the boundaries of your community of interest on a map). Below we discuss ways in which your jurisdiction can make the process of submitting maps more accessible to the public.

## Step Three: Public Hearings

### Number of Public Hearings and Workshops

Before adopting a final map, line drawers must hold at least four public hearings to receive input on where lines should be drawn.<sup>61</sup> This includes at least one hearing before, and at least two hearings after, drawing their first draft map.<sup>62</sup> The fourth required hearing and additional hearings can be held either before or after the draft map has been drawn.<sup>63</sup>

To improve accessibility for people with traditional working hours, at least one hearing must be held on a Saturday, on a Sunday, or after 6 p.m. on a weekday.<sup>64</sup> Ideally, all meetings should be held on days and at times that allow working people to attend. Cities and counties may hold stand-alone hearings on redistricting or include these hearings as part of a regular meeting. If a redistricting hearing is a part of a regular meeting,<sup>65</sup> the hearing must begin at a fixed time, which must be publicly noticed.<sup>66</sup>

### Notice of Hearings and Workshops

The date, time, and location of a hearing or workshop must be published online at least five days in advance.<sup>67</sup> This requirement is reduced to three days in the last 27 days before a jurisdiction's redistricting deadline.<sup>68</sup> You can encourage your jurisdiction to provide as much advance notice as possible for all hearings, including by publishing agendas, materials, and draft maps.

## TIP

You should encourage your jurisdiction to coordinate with other jurisdictions in your region about redistricting-related hearing and workshop dates to minimize conflicts. Your jurisdiction should also avoid scheduling hearings that conflict with California Citizens Redistricting Commission [hearings](#) in the region.

## TIP

To promote an inclusive process, you can encourage your jurisdiction to provide live interpretation and translation in all required languages regardless of whether a request was made in advance. You can also encourage your jurisdiction to keep a list of interpreters.

The California Citizens Redistricting Commission, for example, provides notice, agendas, and materials 14 days in advance for all meetings. Remember that jurisdictions must maintain and update a calendar of hearing and workshop dates on the redistricting webpage.<sup>69</sup>

## Accessibility

Jurisdictions must ensure that all hearing locations are accessible to persons with disabilities.<sup>70</sup> You can encourage greater accessibility by flagging to your jurisdiction that in-person and remote hearings should include American Sign Language (ASL) interpretation and closed captioning for individuals who are Deaf or hard of hearing.

You can also encourage your jurisdiction to hold hearings in different geographic areas to improve accessibility for all communities. Hearing locations should be well-known venues in the community and should be accessible via public transit. Finally, you can encourage your jurisdiction to make all public hearings, including in-person hearings, available remotely using a video platform such as Zoom and YouTube. In this way, members of the public with certain health concerns, or who otherwise cannot attend in person, can still observe and participate in the redistricting process.

Cities and counties must provide live translation of a redistricting hearing in any required language if a request is made by a member of the public at least 72 hours (or three days) in advance.<sup>71</sup> If less than five days of notice is provided for a hearing because a jurisdiction is close to its redistricting deadline, requests for translation only need to be made at least 48 hours (or two days) in advance.<sup>72</sup>

The California Statewide Database is responsible for creating a state-adjusted dataset used for state and local redistricting. **STATE-ADJUSTED DATA** is census data that has been merged with state election data and that has been adjusted to count persons incarcerated in state prisons in their home communities, rather than the correctional facilities where they are detained.

#### TIP

To make the process more accessible, you should encourage your jurisdiction to provide a mapping tool to the public and identify a contact person for questions and assistance. Redistricting consultants and line drawers can provide mapping tools, and there are publicly available tools that have been developed by the California [Statewide Database](#) (creator of [Draw My CA Community](#)), MGGG Redistricting Lab at Tufts University (creator of [Districtr](#)), and the Princeton Gerrymandering Project (creator of [Representable](#)).

#### TIP

Early in the redistricting process, ask your city and/or county to commit to providing more than seven days for residents to evaluate draft maps and provide feedback before adopting the final maps.

## Step Four: Mapping

Cities and counties may not release draft maps until at least 21 days after the release of **state-adjusted census data**.<sup>73</sup> This waiting period applies to cities and counties and does not preclude community groups or members of the public from proposing maps during this period. In fact, this requirement was created to give the public sufficient time, before any draft maps are released, to digest the new data, understand what it means for their communities, and provide input to line drawers. In addition, it ensures that cities and counties take the time needed to assess VRA compliance and draw maps based on the official census data. If state-adjusted census data is released less than 90 days before a city or county's redistricting deadline, the waiting period may be reduced to seven days; if the state-adjusted census data is released less than 60 days before the deadline, the waiting period may be eliminated.<sup>74</sup>

Draft maps must include the total population, citizen voting age population, and racial and ethnic characteristics of the citizen voting age population of each district, to the extent that information is available.<sup>75</sup> Most demographers will have access to this information and should be asked to include it with every draft map they produce.

Once maps are available, they must be posted online for at least seven days before a final map is selected.<sup>76</sup> This requirement is reduced to three days in the last 27 days before a jurisdiction's redistricting deadline.<sup>77</sup> Cities and counties, however, should strive to give more than seven days to the community to evaluate draft maps and provide feedback, and should post draft maps considered at any public hearing or workshop well ahead of the hearing. Community members need a meaningful opportunity to digest draft maps, to identify recommendations, and to possibly develop alternative maps.

## County Boards of Education, School Districts, Community College Districts, and Special Districts

County boards of education, school districts, community college districts, and special districts are governed by some general state redistricting requirements. Unlike cities and counties, however, state law does not provide detailed guidance on redistricting processes for these types of jurisdictions. Below we provide an overview of these general requirements and requirements under the Brown Act. As with cities and counties, county boards of education, school districts, community college districts, and special districts in your region may have their own, local requirements. Be sure to research jurisdiction-specific processes and to learn more and raise questions about these processes during public meetings.

### County Committees on School District Organization

Each county that is not also a city must have a county committee on school district organization (county committee).<sup>78</sup> County committees are either appointed, locally elected, or made up of the county board of education.<sup>79</sup> Relevant here, county committees have some redistricting duties.

### County Boards of Education

There are a handful of statutory requirements that govern the redistricting processes of county boards of education where board members are elected through voting districts, known as trustee areas.

The county committee must redraw the lines of county board of education trustee areas following each decennial census.<sup>81</sup> Like with city and county redistricting, trustee areas must be “as nearly equal in population as possible,”<sup>82</sup> and the trustee map must comply with the VRA.<sup>83</sup> The county committee may also consider the following factors in redrawing trustee area lines: topography; geography; cohesiveness, contiguity, integrity, and compactness of territory; and communities of interest.<sup>84</sup> Remember that even where a jurisdiction is not explicitly required to follow traditional redistricting criteria, failure to follow these criteria may result in maps that are not representative of

#### What are COUNTY BOARDS OF EDUCATION?

County offices of education are usually governed by a county board of education. Depending on your county, county boards of education may, among other things, establish and oversee county charter schools, hold public hearings and adopt Local Control Accountability Plans (LCAPs), serve as an appellate body for student expulsions and interdistrict transfers, educate specific student populations, and oversee programs and services for special education, juvenile court schools, and charter schools.<sup>80</sup>

communities served by the board of education and may serve as evidence of constitutional and/or VRA violations should the district map be challenged in court.

The county committee must comply with the Brown Act: it must hold at least one public hearing before adopting a map and it must publish an agenda at least three days before the hearing.<sup>85</sup> These are baseline requirements, however. To ensure that there is robust public participation, the county committee should strive to hold much more than one public hearing on redistricting. For example, most cities and counties will hold at least four public hearings on redistricting and the Los Angeles Redistricting Commission will hold at least nine public hearings.<sup>86</sup>

The county committee must file new trustee maps with the county board of supervisors no later than March 1, 2022.<sup>87</sup> This means that to be safe, redistricting processes must be completed by February 28, 2022. Note that if your jurisdiction has a primary or special election in 2022, the map adoption deadline might be earlier to account for the pre-election calendar. Check with your governing board to confirm.

### **School Districts and Community College Districts**

The governing board of each school district or community college district<sup>88</sup> must redraw trustee area lines following each decennial census.<sup>89,90</sup> Boards also have the option to create a redistricting commission to lead the redistricting process.<sup>91</sup>

In addition to the benefits of redistricting commissions outlined above, encouraging your school or community college district to establish a hybrid or independent redistricting commission will also impose a number of requirements on the commission that are not required of governing boards when they are in charge of drawing the lines.<sup>92</sup> In particular, hybrid and independent commissions must publish draft maps and make the maps available for at least seven days before a final map is adopted and must hold at least four redistricting public hearings.<sup>93</sup> Governing

boards, on the other hand, are only required to comply with the Brown Act: they must hold at least one public hearing before adopting a map and they must publish an agenda at least three days before the hearing.<sup>94</sup>

Trustee areas must be, “as nearly as may be possible,” equal in population,<sup>95</sup> and the trustee map must comply with the VRA.<sup>96</sup> State law does not provide additional guidance on traditional redistricting principles, but you should encourage your school district or community college district to follow these principles closely to ensure the line drawers adopt a fair map that can withstand legal challenges.

The deadline for governing boards or commissions to adopt trustee area maps is February 28, 2022.<sup>97</sup> If they fail to adopt a new map by this deadline, the county committee takes over the process and must adopt new lines by April 29, 2022.<sup>98</sup> Note that, if your jurisdiction has a primary or special election in 2022, the map adoption deadline might be earlier to account for the pre-election calendar. Check with your governing board to confirm.

## Special Districts

What are **SPECIAL DISTRICTS**?

Special districts are local governments created to deliver specialized services that the local city or county does not provide.<sup>99</sup> Special districts can provide services such as water, health care, and fire services, among other services.

Boards of certain special districts must redraw district lines following each decennial census.<sup>100,101</sup> These boards also have the option to create a redistricting commission to lead the redistricting process.<sup>102</sup>

In addition to the benefits of redistricting commissions outlined above, encouraging special districts to establish a hybrid or independent redistricting commission will also require the commission to hold at least four redistricting public hearings and publish draft maps and make the maps available for at least seven days before a final map is adopted.<sup>103</sup> Boards, on the other hand, are only required to hold two public hearings.<sup>104</sup>

Voting districts must be “as far as practicable, equal in population,” and the district map must comply with the VRA.<sup>105</sup> The board may also consider the following factors in redrawing district lines: topography; geography;

cohesiveness, contiguity, integrity, and compactness of territory; and communities of interest.<sup>106</sup> Remember that even where a jurisdiction is not explicitly required to follow traditional redistricting criteria, failure to follow these criteria may result in maps that are not representative of communities served by the special district and may serve as evidence of constitutional and/or VRA violations should the district map be challenged in court.

Line drawers must adopt a new district map within 180 days before the first election in which the special district uses the new map.<sup>107</sup> Remember, because census data will not be released until late summer or early fall 2021, it is possible that the legislature may change map-adoption deadlines to accommodate redistricting processes, particularly for jurisdictions that have primaries.

*Closing:*

# A FINAL NOTE ON REDISTRICTING

Redistricting is immensely important to our collective political power. The way lines are drawn will not only impact who our communities have the power to elect, but ultimately our ability to shape the local, state, and federal policies that affect our everyday lives, from education equity, immigrant rights, and housing justice, to transforming the criminal legal system. The redistricting process is your opportunity to advocate for lines that are truly representative of our communities. Although certain aspects of redistricting can be very technical, there are many organizations throughout the state working on these issues that can help to support your efforts, including coalitions in various regions.

If you have questions about any redistricting concepts or want to get connected with other organizations working on redistricting, we are here to support you. Please reach out to:

California Common Cause: [redistrictingCA@commoncause.org](mailto:redistrictingCA@commoncause.org) and  
[commoncause.org/localredistricting2021/](https://commoncause.org/localredistricting2021/)

ACLU of Northern California: [redistricting@aclunc.org](mailto:redistricting@aclunc.org)

ACLU of Southern California: [redistricting@aclusocal.org](mailto:redistricting@aclusocal.org)

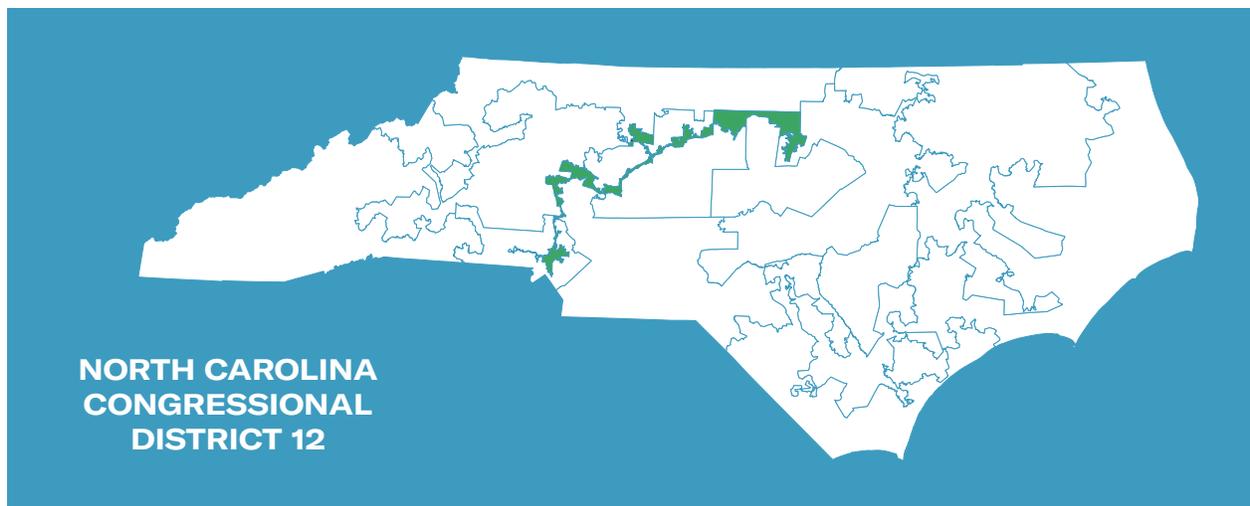
*Appendix A:*

**ADDITIONAL CONTEXT  
ON COMPACTNESS**

Districts have rarely been successfully challenged on the ground that they are not compact. Courts understand that districts frequently have somewhat irregular shapes because line drawers must create districts that are reflective of community of interest testimony.

The only time the Supreme Court has rejected a district on compactness grounds was in *Shaw v. Reno*<sup>108</sup> and *Shaw v. Hunt*.<sup>109,110</sup> In those cases, the Supreme Court considered North Carolina Congressional District 12, an African American majority district. The district is the skinny, forest-green district on the map below. The Supreme Court observed that the district was “approximately 160 miles long and, for much of its length, no wider than the I-85 corridor. It winds in snakelike fashion . . . until it gobbles in enough enclaves of black neighborhoods.”<sup>111</sup> The Supreme Court also noted that the district was “non-compact by any objective standard that can be conceived” and purportedly “the least geographically compact district in the Nation.”<sup>112</sup> The Court also had evidence that the line drawers had created the district because they had subjugated all considerations, including compactness, to a desire to intentionally separate voters by race.

The Court ultimately found that race was the “predominant factor” in drawing District 12 and that it was not compact enough to survive legal challenge.<sup>113</sup> The district had to be redrawn.





On the other hand, in *Cano v. Davis* a California state court found that Congressional District 51, which at the time included a long stretch that ran along the U.S.-Mexico border and connected Imperial County with south San Diego County, was “reasonably compact.”<sup>114</sup> The court found that the district was “no more irregular in shape than any other district created by the legislature, and certainly [did] not constitute a showing of bizarreness that would support an inference that the [district was] racially gerrymandered.”<sup>115</sup> As a result, the district was allowed to stand.<sup>116</sup>

# GLOSSARY

**ADVISORY REDISTRICTING COMMISSION**

Advisory redistricting commissions recommend maps to the legislative body (e.g. city council, county board of supervisors) but do not have the legal authority to select a final map.

**CENSUS BLOCK**

A census block is the smallest level of geography for which the *U.S. Census Bureau* releases demographic data. A census block is an area delineated by visible features including roads, streams, railroad tracks as well as nonvisible features such as property lines and city, county, school district limits. Census blocks are contained within *Census Tracts*.

**CENSUS DESIGNATED PLACE**

A census designated place is a term used by the *U.S. Census Bureau* to indicate an unincorporated community or a geographical area that has a population but is not legally incorporated. For example, there are unincorporated communities in California that are not part of a city or town but are instead governed by the county where they are located.

**CENSUS TRACT**

A census tract is a subdivision of a county that has about 4,000 residents. Census tracts are contained within counties and census tracts contain *Census Blocks*. Census tracts are delineated by visible features including roads and rivers as well as national parks and reservations.

**CITIZEN VOTING AGE POPULATION**

Citizen Voting Age Population (CVAP) refers to residents who are United States citizens and 18 years of age or older.

**COALITION DISTRICT**

A coalition district is formed when two or more politically cohesive *Minority* groups are combined in order to have a meaningful opportunity to elect candidates of their choice. Also known as a *Minority Coalition District*.

**COMMUNITIES OF INTEREST**

Communities of interest (COI) are communities that share similar issues, concerns, and/or characteristics. They can be made up of overlapping sets of neighborhoods, networks, and groups that share, among other things, socio-economic demographics, priorities, views, cultures, histories, languages, and values. Communities of interest benefit from being kept together in a district in the line-drawing process so they can speak with one voice on local, state, or federal political issues.

<b>COMPACTNESS</b>	The shape of a district is compact when people within the district live relatively close to each other. In California state law, a district is considered compact when “nearby areas of population are not bypassed in favor of more distant populations.”
<b>CONTIGUITY</b>	The shape of a district is contiguous if its perimeter can be traced in one, unbroken line.
<b>CRACKING</b>	Cracking occurs when <i>Minority</i> groups are split across multiple districts, thus diluting their presence in each district and ensuring that they have less political influence than their size would properly merit.
<b>CROSSOVER DISTRICT</b>	A crossover district is formed when a politically cohesive <i>Minority</i> group is combined with similarly minded voters from the numerical majority in such a way that the <i>Minority</i> group’s preferred candidates have an opportunity to be elected.
<b>DECENNIAL CENSUS</b>	The decennial census is the counting of every person residing in the United States. The decennial census count occurs every ten years and is mandated by the United States Constitution. Decennial census data is used to redraw the lines of voting maps. The decennial census is conducted by the <i>U.S. Census Bureau</i> .
<b>DEMOGRAPHER</b>	A demographer is an expert in statistical analysis related to human populations. Demographers are used in the <i>Redistricting</i> process to analyze <i>Decennial Census</i> data and create the proposed maps.
<b>GERRYMANDERING</b>	Gerrymandering is the manipulation of district lines to improperly affect political power and give one group an unfair political advantage over another. Racial gerrymandering is prohibited under federal law and partisan gerrymandering is prohibited under California state law.
<b>HYBRID REDISTRICTING COMMISSIONS</b>	Hybrid redistricting commissions recommend two or more maps to the legislative body (e.g. city council, county board of supervisors) that the legislative body must choose between without modification.

<b>INDEPENDENT REDISTRICTING COMMISSIONS</b>	Independent redistricting commissions have the authority to draw and adopt maps without any input from the legislative body (e.g. city council, county board of supervisors).
<b>INFLUENCE DISTRICT</b>	An influence district is formed when a politically cohesive <i>Minority</i> group is not large enough to make up the majority in the district but is still substantial enough in size to influence election outcomes in that district.
<b>MAJORITY-MINORITY DISTRICT</b>	A majority-minority district is formed when the portion of a <i>Minority</i> group that are citizens of voting age makes up the majority of the citizens of voting age in the district overall, thus giving the <i>Minority</i> group a meaningful opportunity to elect candidates of choice. Put more simply, a district where the majority of eligible voters belong to a <i>Minority</i> group is a majority-minority district. Section 2 of the federal Voting Rights Act mandates that majority-minority districts be drawn in specific circumstances.
<b>MINORITY</b>	Minority is a term used in relevant redistricting statutes and case law to refer to racial, ethnic, and language minorities.
<b>MINORITY COALITION DISTRICT</b>	See <i>Coalition District</i> .
<b>NONCONTIGUOUS</b>	A district is noncontiguous if it consists of two or more unconnected areas.
<b>PACKING</b>	Packing occurs when individuals from a <i>Minority</i> group are concentrated in as few districts as possible to limit the total number of districts in which the <i>Minority</i> group will have political influence.
<b>REDISTRICTING</b>	Redistricting is the process of redrawing district maps used by political jurisdictions to elect public officials.
<b>STATE-ADJUSTED DATA</b>	State-adjusted data is <i>Decennial Census</i> data that has been merged with California state election data and adjusted to count persons incarcerated in state prisons in their home communities instead of the correctional facilities where they are detained.

**SUBSTANTIALLY EQUAL  
POPULATION**

Federal and state law requires that each district within a jurisdiction be substantially equal in population. Districts do not have to have exactly equal populations, but the largest district cannot have more than a ten percent population difference compared to the smallest district.

**TRADITIONAL REDISTRICTING  
PRINCIPLES**

Traditional redistricting principles are a set of criteria that guide the redistricting process. They include *Contiguity*, maintaining *Communities of Interest*, minimizing the division of a city or census designated place, following natural and artificial boundaries, and geographical *Compactness*. Under California law, cities and counties are required to follow specified traditional redistricting principles when drawing district lines.

**U.S. CENSUS BUREAU**

The U.S. Census Bureau is the federal government entity in charge of collecting data about people and the economy. For example, the U.S. Census Bureau counts every resident of the United State during the *Decennial Census* and collects survey data about the country's population, housing, and workforce via the American Community Survey.

**ENDNOTES**

<sup>1</sup> See, e.g., *Shaw v. Reno* (“*Reno*”), 509 U.S. 630, 647, 651 (1993); Cal. Elec. Code § 21500(c) (counties); *id.* § 21601(c) (general law cities); *id.* § 21621(c) (charter cities); *id.* § 22000(a) (special districts); Cal. Educ. Code § 1002(a)(1)-(4) (county boards of education).

<sup>2</sup> The commissions for Los Angeles County and San Diego County must follow redistricting criteria similar to criteria all other cities and counties must follow. Cal. Elec. Code § 21534(a)(3)-(5) (Los Angeles County); *id.* § 21552(a)(3)-(5) (San Diego County).

<sup>3</sup> Redistricting criteria in the California Elections Code do not apply to charter cities where a charter excludes consideration of redistricting criteria other than those identified in the charter or where the charter provides two or more traditional criteria for redistricting other than the requirement that districts be equal in population. Cal. Elec. Code § 21621(e).

<sup>4</sup> Cal. Elec. Code § 21500(c) (counties); *id.* § 21601(c) (general law cities); *id.* § 21621(c) (charter cities).

<sup>5</sup> Cal. Elec. Code § 21500(d) (counties); *id.* § 21601(d) (general law cities); *id.* § 21621(d) (charter cities).

<sup>6</sup> *Reno*, 509 U.S. at 647 (recognizing that although adhering to redistricting criteria is not constitutionally required, redistricting criteria are nonetheless important “because they are objective factors that may serve to defeat a claim that a district has been gerrymandered”); *Bush v. Vera*, 517 U.S. 952, 978 (1996) (noting that jurisdictions facing an equal protection challenge to their map could avoid strict scrutiny by “respecting their own traditional districting principles”).

<sup>7</sup> *Reno*, 509 U.S. at 647.

<sup>8</sup> The California Elections Code provides the following guidance on contiguity: “Areas that meet only at the points of adjoining corners are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry service are not contiguous.” Cal. Elec. Code § 21500(c)(1) (counties); *id.* § 21601(c)(1) (general law cities); *id.* § 21621(c)(1) (charter cities).

<sup>9</sup> See, e.g., *Bush*, 517 U.S. at 977 (holding that a “district that [takes] into account traditional districting principles such as maintaining communities of interest . . . may pass strict scrutiny”).

<sup>10</sup> The California Elections Code provides the following guidance on communities of interest: “A ‘community of interest’ is a population that shares common social or economic interest that should be included within a single supervisorial district for purposes of its effective and fair representation. Communities of interest do not include relationships with political parties, incumbents, or political candidates.” Cal. Elec. Code § 21500(c)(2); see also *id.* § 21601(c)(2) (general law cities); *id.* § 21621(c)(2) (charter cities).

<sup>11</sup> The California Elections Code provides the following guidance on compactness: “To the extent practicable, and *where it does not conflict with the preceding criteria in this subdivision*, supervisorial districts shall be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.” Cal. Elec. Code § 21500(c)(5) (emphasis added); see also *id.* § 21601(c)(4) (general law cities); *id.* § 21621(c)(4) (charter cities).

<sup>12</sup> See, e.g., *Montes v. City of Yakima*, 40 F. Supp. 3d 1377, 1393 (E.D. Wash. 2014) (noting that the compactness of districts in proposed remedial maps was “easily confirmed by simply looking at the maps”); *Cuthair v. Montezuma-Cortez, Colo. Sch. Dist.*, 7 F. Supp. 2d 1152, 1167 (D. Colo. 1998) (finding that a disputed district was compact using a “simple visual inspection”).

<sup>13</sup> See, e.g., *Montes*, 40 F. Supp. 3d at 1393 (discussing the Reock test for compactness).

<sup>14</sup> *Bush*, 517 U.S. at 962 (“The Constitution does not mandate regularity of district shape.”).

<sup>15</sup> *Reynolds v. Sims*, 377 U.S. 533, 579 (1964); Cal. Elec. Code § 21500(a) (counties); *id.* § 21601(a) (general law cities); *id.* § 21621(a) (charter cities); Cal. Educ. Code § 1002(a) (county boards of education); *id.* § 5019.5(a)(2) (school districts and community college districts); see also *Gray v. Sanders*, 372 U.S. 368, 379-80, 381 (1963) (rejecting state legislature voting system where representatives were selected on a county basis resulting in inequality because counties varied widely in population size); *Wesberry v. Sanders*, 376 U.S. 1, 1, 7-8 (1964) (holding that congressional districts must be equal in population “as nearly as is practicable”).

<sup>16</sup> See *Reynolds*, 377 U.S. at 577 (recognizing that “[m]athematical exactness or precision is hardly a workable constitutional requirement” and “a practical impossibility”).

<sup>17</sup> *White v. Regester*, 412 U.S. 755, 764 (1973) (“[W]e do not consider relatively minor population deviations among state legislative districts to substantially dilute the weight of individual votes in the larger districts so as to deprive individuals in these districts of fair and effective representation . . . we cannot glean an equal protection violation from the single fact that two legislative districts in Texas differ from one another by as much as 9.9%”).

<sup>18</sup> *See, e.g., Mahan v. Howell*, 410 U.S. 315, 325 (1973) (affirming population deviation of 16.4 percent because deviation was “based on legitimate considerations incident to the effectuation of a rational state policy”).

<sup>19</sup> Cal. Elec. Code § 21500(a)(1) (counties); *id.* § 21601(a)(1) (general law cities); *id.* § 21621(a)(1) (charter cities); *see also* Cal. Educ. Code § 1002(a) (for county boards of education, requiring that districts be “as nearly equal in population as practicable”); Cal. Educ. Code § 5019.5(a)(2) (for school districts and community college districts, requiring that the population of each area be “as nearly as may be, the same proportion of the *total* population of the district as each of the other areas”) (emphasis added); Cal. Elec. Code § 2200 (for special districts, requiring that districts be “as far as practicable, equal in population” using decennial census data).

<sup>20</sup> The Supreme Court decided in *Evenwel v. Abbott* that the “one person, one vote” principle of the Equal Protection Clause allows a state or locality to design its districts based on total population. 1136 S. Ct. 1120, 1132-33 (2016) (noting that all 50 states and countless local jurisdictions have used total population to redistrict “for decades, even centuries”). Observers read the language of the decision as discouraging the use of other metrics, but the Court did not rule out those other metrics. We know of no locality in California that has used any metric other than total population, and all relevant state law either explicitly or implicitly requires the use of total population. *See supra* note 19.

<sup>21</sup> 52 U.S.C.A. § 10301.

<sup>22</sup> *Bush*, 517 U.S. at 958.

<sup>23</sup> *See, e.g., Reno*, 509 U.S. at 640-42, 658; *Shaw v. Hunt* (“*Hunt*”), 517 U.S. 899, 905 (1996).

<sup>24</sup> 52 U.S.C.A. § 10301(a).

<sup>25</sup> Conversely, to successfully challenge a district map on the ground that it does not contain a majority-minority district in violation of Section 2, a plaintiff must first establish the “*Gingles*” factors: (1) the minority group constitutes a majority in a geographically compact district; (2) the minority group is politically cohesive; and (3) the majority votes as a bloc to usually defeat the minority’s preferred candidates. *Thornburg v. Gingles*, 478 U.S. 30, 49-51 (1986). Racially polarized voting analysis is used to prove *Gingles* factors 2 and 3. If these factors are satisfied, a court will then seek to determine if, under the “totality of circumstances,” the districting plan results in minority vote dilution. *Id.* at 43-46; *see also Johnson v. De Grandy*, 512 U.S. 997, 1009-14 (1994).

<sup>26</sup> *Bartlett v. Strickland*, 129 S. Ct. 1231, 1272 (2009).

<sup>27</sup> *Gingles*, 478 U.S. at 36-38 (citing S.Rep. No. 97-417, 97th Cong., 2d Sess. 28-29 (1982)).

<sup>28</sup> *Gingles*, 478 U.S. at 36-38 (citing S.Rep. No. 97-417, 97th Cong., 2d Sess. 28-29 (1982)).

<sup>29</sup> *See Gingles*, 478 U.S. at 47-48 (“This Court has long recognized that . . . at-large voting schemes may operate or cancel out the voting strength of racial [minorities in] the voting population.”) (citations and quotation marks omitted, alterations in original).

<sup>30</sup> *Romero v. City of Pomona*, 883 F. 2d 1418, 1426 (9th Cir. 1989) (“[E]ligible minority voter population, rather than total minority population, is the appropriate measure of geographical compactness”).

<sup>31</sup> *Bartlett*, 556 U.S. at 13 (emphasis added).

<sup>32</sup> *Bartlett*, 556 U.S. at 24.

<sup>33</sup> *Campos v. City of Baytown*, 840 F. 2d 1240, 1244 (5th Cir. 1998) (holding that Black and Latino communities may be combined to meet the first *Gingles* condition of a geographically compact minority); *Concerned Citizens of Hardee Cnty. v. Hardee Cnty. Bd. of Comm’rs*, 906 F. 2d 524, 525, 526 (11th Cir. 1990) (acknowledging that Black and Latino communities could be combined to form a majority-minority district, meeting the first *Gingles* condition, but upholding district court ruling that Black and Latino communities were not shown to be politically cohesive, failing the second *Gingles* condition); *but see Nixon v. Kent Cnty.*, 76 F. 3d 1381, 1386 (6th Cir. 1996) (holding that Congress did not intend for multiple minority groups to be combined to meet the first *Gingles* condition).

- <sup>34</sup> *Badillo v. City of Stockton, Cal.*, 956 F. 2d 884, 886, 891 (9th Cir. 1992).
- <sup>35</sup> *Wilson v. Eu*, 1 Cal. 4th 707, 715 (1992).<sup>37</sup> See *Gingles*, 478 U.S. at 47-48 (“This Court has long recognized that . . . at-large voting schemes may operate or cancel out the voting strength of racial [minorities in] the voting population.”) (citations and quotation marks omitted, alterations in original).
- <sup>36</sup> *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 446 (2006).
- <sup>37</sup> *Wilson*, 1 Cal. 4th at 715.
- <sup>38</sup> Cal. Elec. Code §§ 21530-21535 (requirements for Los Angeles Independent Redistricting Commission).
- <sup>39</sup> Cal. Elec. Code §§ 21550-21553 (requirements for San Diego Independent Redistricting Commission).
- <sup>40</sup> Cal. Elec. Code § 23001.
- <sup>41</sup> See Cal. Elec. Code § 23000(e), (f) (noting that charter cities are not covered by California Elections Code chapter).
- <sup>42</sup> Cal. Elec. Code § 23000(a).
- <sup>43</sup> Cal. Elec. Code § 23000(c).
- <sup>44</sup> Cal. Elec. Code § 23000(d).
- <sup>45</sup> Cal. Elec. Code § 23003(h), (i).
- <sup>46</sup> Cal. Elec. Code § 23001 (noting advisory commissions are established by “resolution, ordinance, or charter amendment”); Cal. Gov’t Code § 54952(b) (defining legislative body as including advisory committees created by charter, ordinance, resolution, or formal action).
- <sup>47</sup> See, generally, Cal. Elec. Code §§ 23000-23004.
- <sup>48</sup> Note that, as with any state law, city charters may override some requirements of AB 849 and AB 1276.
- <sup>49</sup> Jurisdictions with elections between January 1, 2022 and before July 1, 2022 must adopt maps 174 days before that election, while jurisdictions that do not have elections during that time period must adopt maps 205 days before their next regular election. Cal. Elec. Code § 21501(a)(2)-(3) (counties); *id.* § 21602(a)(2)-(3) (general law cities); *id.* § 21622(a)(2)-(3) (charter cities).
- <sup>50</sup> The jurisdiction must also maintain the webpage for at least 10 years after the line drawers adopt a final map. Cal. Elec. Code § 21508(g) (counties); *id.* § 21608(g) (general law cities); *id.* § 21628(g) (charter cities).
- <sup>51</sup> Cal. Elec. Code § 21508(g) (counties); *id.* § 21608(g) (general law cities); *id.* § 21628(g) (charter cities).
- <sup>52</sup> Cal. Elec. Code § 21508(g) (counties); *id.* § 21608(g) (general law cities); *id.* § 21628(g) (charter cities).
- <sup>53</sup> Cal. Elec. Code § 21508(a) (counties); *id.* § 21608(a) (general law cities); *id.* § 21628(a) (charter cities).
- <sup>54</sup> Cal. Elec. Code § 21508(a)(1)-(2) (counties); *id.* § 21608(a)(1)-(2) (general law cities); *id.* § 21628(a)(1)-(2) (charter cities).
- <sup>55</sup> Cal. Elec. Code § 21508(a)(2) (counties); *id.* § 21608(a)(2) (general law cities); *id.* § 21628(a)(2) (charter cities).
- <sup>56</sup> At the very least, translated materials must include a general explanation of the redistricting process and the procedures for a member of the public to testify during a public hearing or submit written testimony. Cal. Elec. Code § 21508(b), (g)(1)-(2) (counties); *id.* § 21608(b), (g)(1)-(2) (general law cities); *id.* § 21628(b), (g)(1)-(2) (charter cities).
- <sup>57</sup> Cal. Elec. Code § 21508(e) (counties); *id.* § 21608(e) (general law cities); *id.* § 21628(e) (charter cities).
- <sup>58</sup> See, e.g., Cal. Elec. Code § 21507.1(a) (requiring four public hearings “at which the public is invited to provide input”); *id.* § 21508(g)(2) (requiring line drawers to establish procedures for the public to testify *during* a public hearing); Cal. Gov’t Code § 54954.3(a).<sup>58</sup> Cal. Elec. Code § 21508(e) (counties); *id.* § 21608(e) (general law cities); *id.* § 21628(e) (charter cities).
- <sup>59</sup> Cal. Elec. Code § 21508(f) (counties); *id.* § 21608(f) (general law cities); *id.* § 21628(f) (charter cities).
- <sup>60</sup> Cal. Gov’t Code § 54954.3(b)(2).
- <sup>61</sup> Cal. Elec. Code § 21507.1(a) (counties); *id.* § 21607.1(a) (general law cities); *id.* § 21627.1(a) (charter cities).
- <sup>62</sup> Cal. Elec. Code § 21507.1(a)(1)-(2) (counties); *id.* § 21607.1(a)(1)-(2) (general law cities); *id.* § 21627.1(a)(1)-(2) (charter cities).
- <sup>63</sup> See, generally, Cal. Elec. Code § 21507.1(a) (counties); *id.* § 21607.1(a) (general law cities); *id.* § 21627.1(a) (charter cities).

- <sup>64</sup> Cal. Elec. Code § 21507.1(b) (counties); *id.* § 21607.1(b) (general law cities); *id.* § 21627.1(b) (charter cities).
- <sup>65</sup> Cal. Elec. Code § 21507.1(d) (counties); *id.* § 21607.1(d) (general law cities); *id.* § 21627.1(d) (charter cities).
- <sup>66</sup> Cal. Elec. Code § 21507.1(d) (counties); *id.* § 21607.1(d) (general law cities); *id.* § 21627.1(d) (charter cities).
- <sup>67</sup> Cal. Elec. Code § 21508(c) (counties); *id.* § 21608(c) (general law cities); *id.* § 21628(c) (charter cities).
- <sup>68</sup> Cal. Elec. Code § 21508(c) (counties); *id.* § 21608(c) (general law cities); *id.* § 21628(c) (charter cities).
- <sup>69</sup> Cal. Elec. Code § 21508(g)(3) (counties); *id.* § 21608(g)(3) (general law cities); *id.* § 21628(g)(3) (charter cities).
- <sup>70</sup> Cal. Elec. Code § 21507.1(c) (counties); *id.* § 21607.1(c) (general law cities); 21627.1(c) (charter cities).
- <sup>71</sup> Cal. Elec. Code § 21508(b), (h) (counties); *id.* § 21608(b), (h) (general law cities); *id.* § 21628(b), (h) (charter cities).
- <sup>72</sup> Cal. Elec. Code § 21508(b) (counties); *id.* § 21608(b) (general law cities); *id.* § 21628(b) (charter cities).
- <sup>73</sup> Cal. Elec. Code § 21508(d)(3)(A) (counties); *id.* § 21608(d)(3)(A) (general law cities); *id.* § 21628(d)(3)(A) (charter cities).
- <sup>74</sup> Cal. Elec. Code § 21508(d)(3)(B) (counties); *id.* § 21608(d)(3)(B) (general law cities); *id.* § 21628(d)(3)(B) (charter cities).
- <sup>75</sup> Cal. Elec. Code § 21508(d)(2) (counties); *id.* § 21608(d)(2); *id.* § 21628(d)(2) (charter cities).
- <sup>76</sup> Cal. Elec. Code § 21508(d)(1) (counties); *id.* § 21608(d)(1) (general law cities); *id.* § 21628(d)(1) (charter cities).
- <sup>77</sup> Cal. Elec. Code § 21508(d)(1) (counties); *id.* § 21608(d)(1) (general law cities); *id.* § 21628(d)(1) (charter cities).
- <sup>78</sup> Cal. Educ. Code § 4000.
- <sup>79</sup> See, e.g., Cal. Educ. Code §§ 4002, 4005, 4020.
- <sup>80</sup> California County Boards of Education, *County Boards of Education*, <http://www.theccbe.org/en/AboutUs/CountyBoardsOfEducation> (last accessed Mar. 8, 2021).
- <sup>81</sup> Cal. Educ. Code § 1002(b).
- <sup>82</sup> Cal. Educ. Code § 1002(a).
- <sup>83</sup> 52 U.S.C.A. § 10301(a).
- <sup>84</sup> Cal. Educ. Code § 1002(a)(1)-(4).
- <sup>85</sup> Gov't Code § 54954.2(a).
- <sup>86</sup> See, e.g., Cal. Elec. Code § 21607.1 (requiring four hearings for general law cities); *id.* § 21534(c)(2)(A) (requiring seven hearings for the Los Angeles County Independent Redistricting Commission).
- <sup>87</sup> Cal. Educ. Code § 1002(c).
- <sup>88</sup> The governing boards of community college districts with campuses in more than one county do not have the power to conduct decennial redistricting. In such instances, the county committee on school district organization is tasked with redrawing the lines. Cal. Educ. Code §§ 5019, 5019.7.
- <sup>89</sup> Cal. Educ. Code § 5019.5(a).
- <sup>90</sup> Note that governing boards of school and community college districts that do not also serve as the county board of education have the power to draw trustee area lines only during decennial redistricting. Cal. Educ. Code § 5019.5(c); *id.* § 5019(a)(1). In all other instances, including mid-decade redistricting and initial districting (e.g., as a remedy for a California Voting Rights Act violation), the county committee has the final say on the trustee area lines. *Id.* § 5019.5(c) (limiting the redistricting power of school and community college boards to decennial redistricting); see also *id.* § 5019(a) (providing that county committees have the power to rearrange the boundaries of trustee areas).
- <sup>91</sup> Cal. Elec. Code § 23001.
- <sup>92</sup> Cal. Elec. Code § 23003(j).
- <sup>93</sup> Cal. Elec. Code § 23003(j).
- <sup>94</sup> Gov't Code § 54954.2(a).
- <sup>95</sup> Cal. Educ. Code § 5019.5(a)(2).
- <sup>96</sup> 52 U.S.C.A. § 10301(a).

<sup>97</sup> Cal. Educ. Code § 5019.5(b).

<sup>98</sup> Cal. Educ. Code § 5019.5(b).

<sup>99</sup> California Special Districts Association, *Learn About Districts*, <https://www.csda.net/special-districts/learn-about> (last accessed Mar. 8, 2021).

<sup>100</sup> Cal. Elec. Code § 22000(a).

<sup>101</sup> These requirements do not apply to district maps where only landowners vote for directors. Specific Districts in particular may have their own district-specific requirements. As previously noted, be sure to research jurisdiction-specific requirements, including the authorizing act that created your special district. Cal. Elec. Code § 22000(a).

<sup>102</sup> Cal. Elec. Code § Code 23001.

<sup>103</sup> Cal. Elec. Code § 23003(j).

<sup>104</sup> Cal. Elec. Code § 22001.

<sup>105</sup> Cal. Elec. Code § 22000(a); 52 U.S.C.A. § 10301(a).

<sup>106</sup> Cal. Elec. Code § 22000(a).

<sup>107</sup> Cal. Elec Code § 22000(d).

<sup>108</sup> *Reno*, 509 U.S. 630 (1993).

<sup>109</sup> *Hunt*, 517 U.S. 899, 906 (1996).

<sup>110</sup> The Supreme Court deemed North Carolina's 12th Congressional District a racial gerrymander meriting strict scrutiny and remanded it to a federal District Court. *Shaw v. Reno*, 509 U.S. at 641, 658. The District Court held the district passed strict scrutiny and the Supreme Court, considering the district a second time, reversed. *Hunt*, 517 U.S. at 916-18.

<sup>111</sup> *Reno*, 509 U.S. at 635-36 (citations and quotations omitted).

<sup>112</sup> *Hunt*, 517 U.S. 899, 906 (1996).

<sup>113</sup> *Hunt*, 517 U.S. at 906, 916.

<sup>114</sup> *Cano*, 211 F. Supp. 2d 1208, 1222 (C.D. Cal. 2002).

<sup>115</sup> *Cano*, 211 F. Supp. 2d at 1222.

<sup>116</sup> *Cano*, 211 F. Supp. 2d at 1252.

