

# Local Government Redistricting Toolkit

*A Resource for California's Local Governments  
in the 2021-2022 Redistricting Cycle*



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## The Importance of Local Redistricting

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Redistricting, or the redrawing of district lines, is a once-in-a-decade opportunity to ensure a fair democratic process at the local level. Redistricting helps determine whether communities have a voice in city and county governments and directly impacts the pipeline for future leaders at the state and federal level. To ensure that communities are meaningfully represented by their local governments and that elected officials reflect the full diversity of California's population, it is crucial that local governments create a redistricting process that is as fair, transparent, and accessible as possible, especially for historically underrepresented communities.

AB 849 (Bonta), known as the FAIR MAPS Act, passed in 2019 to improve and standardize the local redistricting process and incorporate best practices that California already uses for redistricting at the state level.<sup>1</sup> Local governments now have clearer guidelines around the drawing of district maps to ensure fairness and prohibit partisan gerrymandering. The FAIR MAPS Act also created public outreach and transparency requirements to ensure that all communities know about and can directly shape the drawing of their city or county's district lines.

When local governments invest time, attention, and resources into a comprehensive and accessible redistricting process, much is possible: elected officials better understand the needs and makeup of their constituents, communities deepen their trust in local government and become more invested in public decision-making processes, and all residents have the opportunity to feel represented at the local level. This is the power of local redistricting.

## Legal Requirements When Drawing District Maps

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Federal and state law provide clear guidelines for how local governments draw their district lines. When drawing district lines, local governments must comply with the requirements established by the United States Constitution, the federal Voting Rights Act of 1965, and now the FAIR MAPS Act.<sup>2</sup>

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<sup>1</sup> AB 1276 (Bonta) passed in 2020 and made technical fixes to AB 849, including clarifying changes and updates to the redistricting timeline to leave adequate time for the elections process and to accommodate possible delays in the delivery of census data. This Toolkit has been updated to reflect changes to the law made by AB 1276.

<sup>2</sup> Cal. Elec. Code §§ 21500, 21601, 21621.

## Federal Requirements

### *Substantial Equality of Population*

In a series of court cases in the 1960s, the Supreme Court held that the Fourteenth Amendment of the United States Constitution requires that all districts within a political jurisdiction have “substantial equality of population.”<sup>3</sup>

The Supreme Court requires *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 reasonably contiguous and compact may result in districts that have slightly different populations.

How much deviation in population is allowed between districts? The Supreme Court has stated that deviation of up to 10 percent is only a minor deviation and is not enough to show a violation of the Fourteenth Amendment.<sup>4</sup> Maps with population deviations above 10 percent can be justified only in limited circumstances.<sup>5</sup>

Note that the appropriate measure of population when considering substantial equality of population is *total population*, not alternative measures like the number of voters or the citizen voting-age population (CVAP).<sup>6</sup> This reflects the principle that a city council represents all of a city’s residents, not merely those who are eligible to vote.

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<sup>3</sup> *Reynolds v. Sims*, 377 U.S. 533, 579 (1964); see also *Gray v. Sanders*, 372 U.S. 368 (1963). Please note that this section describes the standards for non-Congressional districts, such as city and county districts. The requirement is more stringent for Congressional districts. See *Kirkpatrick v. Preisler*, 394 U.S. 526, 528 (1969).

<sup>4</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>5</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>6</sup> The Supreme Court decided in *Evenwel v. Abbott*, 578 US \_\_, 136 S.Ct. 1120 (2016), 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. Observers read the language of the decision as discouraging the use of other metrics, but the Court did not rule out the use of other metrics. We know of no locality in California that has used any metric other than total population.

## Requirements of the Federal Voting Rights Act of 1965

The federal Voting Rights Act (VRA) of 1965<sup>7</sup> 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 election systems and practices that have the effect of diluting the voting power of racial, ethnic, and language minorities.<sup>8</sup>

Various districting and 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.”

- “Packing” refers to concentrating as many people from a minority group as possible into as few districts as possible. This limits the total number of districts in which they have influence. For example, if a community could be 55 percent of 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.
- “Cracking” refers to fragmenting concentrations of minority populations among multiple districts to ensure that they have no effective voice in any one district. If a community could be 60 percent of one district, but is instead split so it is 20 percent of four different districts, “cracking” has occurred.

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>9</sup> A map may violate the VRA even if the map drawers did not *intend* to discriminate against minority voters.<sup>10</sup> It is enough that a map *results* in minority vote dilution for it to be found unlawful.

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<sup>7</sup> 52 U.S.C.A. § 10101 *et seq.*

<sup>8</sup> 52 U.S.C.A. § 10301; *see Thornburg v. Gingles*, 478 U.S. 30, 44–45 (1986).

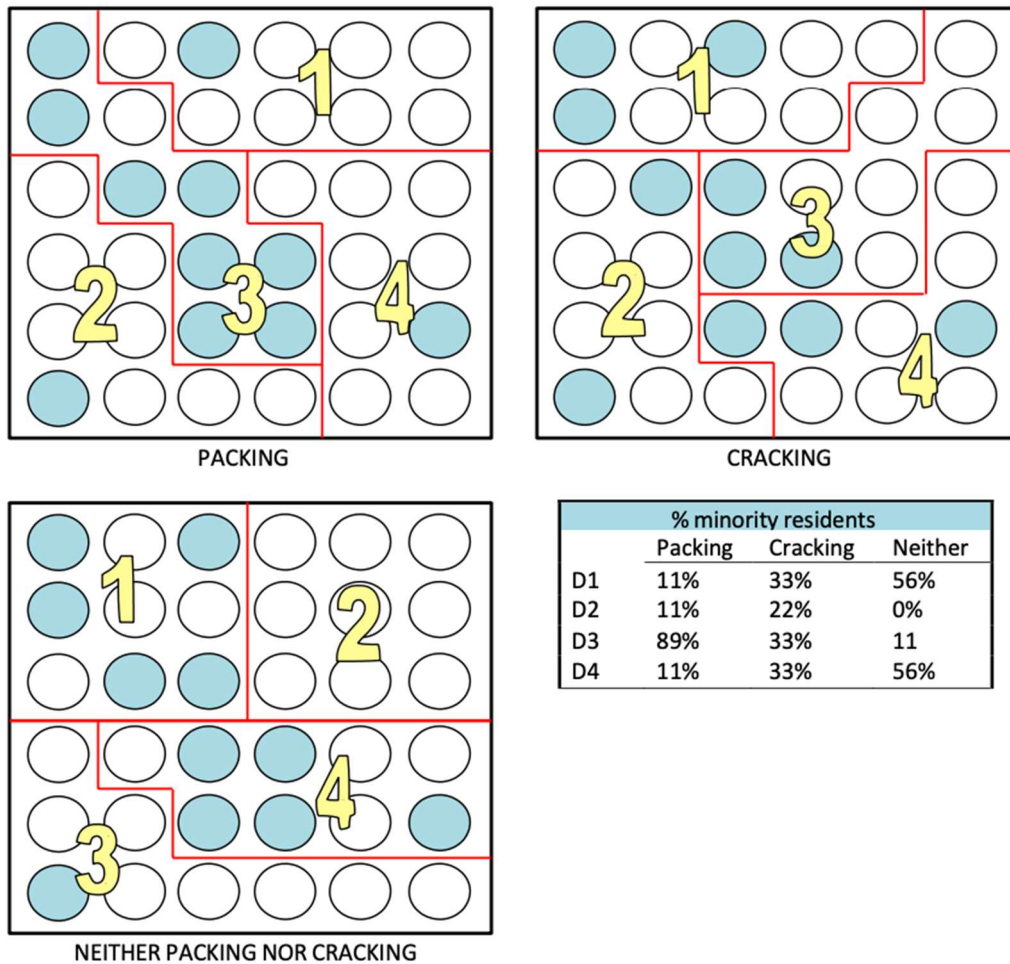
<sup>9</sup> 52 U.S.C.A. § 10301.

<sup>10</sup> *Gingles*, 478 U.S. at 44.

### **Diagram: Packing & Cracking**

Here is an example of three ways a districting body could map four districts within the same city.

In this simplified hypothetical, minority voters are represented by blue dots. The first example “packs” blue voters. The second “cracks” them. The third example does neither, thus avoiding minority vote dilution.



**How can a district map be drawn that complies with the VRA?**

This is a complicated area of law, but in simple terms, the VRA requires the following: If a city is home to (1) a politically cohesive minority group that (2) has experienced difficulty electing

candidates of its choice because the majority votes opposite to its interests and (3) has experienced discrimination historically, the city should draw a district in which that minority group is over 50 percent of the district, if (4) the minority group is geographically compact enough to do so.<sup>11</sup>

### What is the appropriate measure of population for creating a majority-minority district?

As discussed above, the requirement that districts be substantially equal in their population is based on total population, because elected officials represent their whole constituency, including children and people who are not eligible to vote. However, the population measure that is used to determine whether there is vote dilution is not total population. Instead, the measure used is the “citizen voting age population” (CVAP), meaning the population of the district’s residents who are United States citizens and 18 years of age or older.<sup>12</sup> Essentially, CVAP represents registered voters plus those unregistered individuals who could register to vote if they so choose. The effectiveness of a minority population in a district is measured by whether the *eligible voters* of that population represent a majority of all *eligible voters* in that district.

Any demographer hired by local governments should be able to provide extensive data on the CVAP in the city in order to analyze the types of districts that can be drawn and ensure compliance with the VRA.

### What kinds of districts can be drawn to empower historically disenfranchised communities?

There are various approaches to creating districts that empower historically disenfranchised communities. The appropriate districts for a particular jurisdiction depend on the size of the

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<sup>11</sup> To challenge a district map on the grounds that it violates the VRA, a plaintiff has to show three conditions in court: (1) A minority group is large enough and geographically compact enough that it could make up the majority of a district; (2) that minority group is politically cohesive, meaning that most or all of its members vote in a similar way; and (3) majority voters vote as a bloc in a way that usually defeats the minority’s preferred candidates. *Gingles*, 478 U.S. at 49. If these three conditions are satisfied but the district map does not include a district, or districts, in which the minority group in question is over 50 percent of the population, then a court will look at the “totality of circumstances” to determine if there is vote dilution. See e.g., *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 425–26 (2006).

<sup>12</sup> *Romero v. City of Pomona*, 883 F. 2d 1418, 1426 (9th Cir. 1989) (“eligible minority voter population, rather than total minority population, is the appropriate measure of geographical compactness”), *overruled in part on other grounds*.

communities in the jurisdiction, how diffuse or compact they are, how politically cohesive they are, and input from community members indicating their common interests and desires for their particular districts. With that said, below are four common frameworks that local governments can utilize to ensure that racial, ethnic, and language minorities are afforded an equal opportunity to participate in their elections:

**Majority-minority district.** A district is known as a “majority-minority district” when “a minority group composes a numerical, working majority” of the district.<sup>13</sup> As discussed earlier, the Voting Rights Act requires a majority-minority district under a very specific set of circumstances that indicate minority vote dilution is occurring.

**Crossover district.** A district is known as a “crossover district” when a racial or language minority is *not* large enough to compose the majority of a district but is large enough that when the minority group’s votes are combined with those of similarly-minded voters from the majority population, the preferred candidates of the minority have an opportunity to win. The Supreme Court has held that the Voting Rights Act does not mandate the creation of crossover districts but that jurisdictions “that wish to draw crossover districts are free to do so.”<sup>14</sup>

**Minority coalition district.** A district is known as a “coalition district” when two racial, ethnic, or language minority groups can be combined to form a majority of the district. Although the Supreme Court has not addressed whether the Voting Rights Act requires the creation of coalition districts, some federal circuit courts have held that coalition districts must be created when two racial, ethnic, or language minority groups, taken together, meet the requirements for a vote dilution claim.<sup>15</sup> In other words, if two racial, ethnic, or language minority groups are politically cohesive, have experienced difficulty electing candidates of their choice, and have experienced discrimination historically, the local governing body should draw a district in which the two groups combine to form over 50 percent of a district, if the groups are geographically compact enough to do so. The Ninth Circuit has implicitly recognized that vote dilution could

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<sup>13</sup> *Bartlett v. Strickland*, 556 U.S. 1, 13 (2009).

<sup>14</sup> *Id.* at 24.

<sup>15</sup> *Campos v. City of Baytown*, 840 F. 2d 1240, 1244 (5th Cir. 1998) (holding that blacks and Latinos may be combined to meet first *Gingles* condition of a geographically compact minority); *Concerned Citizens of Hardee County v. Hardee County Bd. of Comm’rs*, 906 F. 2d 524 (11th Cir. 1990) (blacks and Latinos combined to form a majority-minority district, meeting first *Gingles* condition, but upholding district court ruling that blacks and Latinos were not shown to be politically cohesive, failing second *Gingles* condition); *but see Nixon v. Kent County*, 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).



occur based on failure to draw a coalition district.<sup>16</sup> The California Supreme Court has written approvingly of coalition districts.<sup>17</sup>

**Influence district.** A district is known as an “influence district” when a racial or language minority group is not large enough to compose the majority of a district but is still numerous enough to influence election outcomes in that district. While the U.S. Supreme Court has made clear that the Voting Rights Act does not guarantee influence districts to racial and language minority groups,<sup>18</sup> just as with crossover districts nothing prevents a districting body from creating influence districts if it so chooses. The California Supreme Court has written approvingly of influence districts.<sup>19</sup>

### *The Acceptable Use of Race*

The Supreme Court has declared that redistricting may be performed “with consciousness of race.”<sup>20</sup> Indeed, it would be impossible to properly undertake a districting process without consideration of race given the many protections afforded to racial, ethnic, and language minorities by the federal Voting Rights Act. Furthermore, understanding the racial, ethnic, and language communities of a jurisdiction has always been part of determining that jurisdiction’s communities of interest.

At the same time, the Supreme Court does not permit racial gerrymanders, where districts are so bizarrely shaped that it is clear the line drawers predominantly considered race in creating the maps *and* there is no compelling reason for the way race was used.<sup>21</sup> So where is the line? In the words of the Supreme Court, “The constitutional wrong occurs when race becomes the dominant and controlling consideration.”<sup>22</sup> This is why local governments should look at other factors in addition to race — such as shared history and language, common social networks, shared interest in schools, health, and public safety, neighborhood boundaries — that indicate whether members of racial groups also form communities of interest.

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<sup>16</sup> *Badillo v. City of Stockton, Cal.*, 956 F. 2d 884, 886, 891 (9th Cir. 1992) (acknowledging that “[H]ispanics and blacks together could form a majority in a single-member district” but affirming lower court’s holding that plaintiffs did not meet *Gingles* conditions for a vote dilution claim because they failed to show Hispanic and Black communities in the contested district were politically cohesive).

<sup>17</sup> *Wilson v. Eu*, 1 Cal. 4th 707, 715 (1992).

<sup>18</sup> *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 446 (2006).

<sup>19</sup> *Wilson*, 1 Cal. 4th at 715.

<sup>20</sup> *Bush v. Vera*, 517 U.S. 952, 958 (1996).

<sup>21</sup> See *Bethune-Hill v. Virginia State Bd. of Elections*, 137 S. Ct. 788, 797, 800-801 (2017).

<sup>22</sup> *Shaw v. Hunt*, 517 U.S. 899, 905 (1996) (emphasis added).

## California State Requirements

When cities and counties in California draw or redraw district lines, they must comply with the US Constitution and the federal Voting Rights Act *and* they must use redistricting criteria mandated by the California Elections Code, which are ranked in order of priority.<sup>23</sup>

### Ranked Redistricting Criteria for Cities

1	Geographic Contiguity	Does each district have a single unbroken border?
2	Neighborhoods and Communities of interest	Are neighborhoods and other communities of interest kept whole (intact within the same district)?
3	Easily Identifiable Boundaries	Do districts follow easily identifiable natural and manmade boundaries, such as streets, rivers, highways, and rail lines?
4	Geographical Compactness	Are districts relatively compact?

**Charter City Exemption:** Charter cities that have adopted redistricting criteria in their charter do not have to follow these ranked criteria, if their charter provides two or more traditional redistricting criteria and/or their charter excludes consideration of other redistricting criteria.<sup>24</sup>

### Ranked Redistricting Criteria for Counties

1	Geographic Contiguity	Does each district have a single unbroken border?
2	Neighborhoods and Communities of interest	Are neighborhoods and other communities of interest kept whole (intact within the same district)?
3	Cities and Census-Designated Places Intact	Are cities and other census designated places ( <i>e.g.</i> , unincorporated territories) kept whole and/or divided as little as possible?
4	Easily Identifiable Boundaries	Do districts follow easily identifiable natural and manmade boundaries, such as streets, rivers, highways, and rail lines?
5	Geographical Compactness	Are districts relatively compact?

<sup>23</sup> Cal. Elec. Code §§ 21621(e), 21601(c), 21621(c).

<sup>24</sup> Cal. Elec. Code § 21500(c).

## ***What is Contiguity?***

A district is geographically contiguous if its perimeter can be traced in one, unbroken line. A district consisting of two or more unconnected areas is not contiguous. Two areas of land separated by water may be considered contiguous if a bridge, tunnel, or regular ferry connects them.

## ***What are Communities of Interest?***

During redistricting, a local government should aim to keep neighborhoods and communities of interest intact within a single city council or supervisorial district. Communities of interest are the overlapping sets of neighborhoods, networks, and groups that share interests, views, cultures, histories, languages, and values and whose boundaries can be identified on a map. Relationships with political parties or elected officials and candidates are not considered communities of interest.

The following elements help define communities of interest:

- shared interests in schools, housing, community safety, transit, health conditions, land use, environmental conditions, and/or other issues;
- common social and civic networks, including churches, mosques, temples, homeowner associations, and community centers, and shared use of community spaces, like parks and shopping centers;
- racial and ethnic compositions, cultural identities, and households that predominantly speak a language other than English;
- similar socio-economic status, including but not limited to income, home-ownership, and education levels;
- shared political boundary lines from other jurisdictions, such as school districts, community college districts, and water districts.

While local governing bodies likely know many of the communities of interest in their jurisdictions, there will inevitably be some communities that they do not know well and some that they do not know at all. A holistic picture of the communities of interest in any city or county takes shape only through extensive public testimony from a diverse set of community members. See the Best Practices for Local Redistricting section below for recommendations on how local governments can collect comprehensive community input.

## *What is Compactness?*

There are various social science measures of compactness, but most courts have applied an intuitive know-it-when-you-see-it test that looks at geometric shape to determine if a district is compact.<sup>25</sup> Courts may also use a functional analysis, such as analyzing whether citizens in the district can relate to each other and can relate to their representative.<sup>26</sup>

Local governments should give local governments the proper amount of weight. In California, cities and counties must prioritize the other ranked criteria above compactness.<sup>27</sup> They must also comply with the US Constitution and the federal Voting Rights Act. In many instances, keeping communities of interest intact, complying with the Voting Rights Act, and/or following geographic boundaries can only be achieved by drawing maps that have somewhat unusual shapes.

## *Compactness & Gerrymandering*

Recognizing the many factors line-drawers must consider, Courts understand that districts will not have simple geometric shapes.<sup>28</sup> Maps may be challenged for being non-compact where they have an extremely irregular shape that may indicate racial gerrymandering and there is evidence that race played the predominant role in map creation. Courts use a very detailed analysis that looks beyond shape, considering the history of discrimination, line-drawer statements, and whether maps reflect communities of interest and other redistricting criteria. It is quite rare for districts to be successfully challenged in court on the basis of compactness.

On the next page are two examples where courts looked at compactness when deciding whether a map was based predominantly on race.

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<sup>25</sup> See e.g., *Lee v. City of Los Angeles*, 88 F. Supp. 3d 1140, 1150 (C.D. Cal. 2015) (noting that district shaped like a “fat turkey” has “a relatively compact and contiguous shape”); *Cuthair v. Montezuma-Cortez, Colo. Sch. Dist.*, 7 F. Supp. 2d 1152, 1167 (D. Colo. 1998) (determining that a disputed district was compact using a “simple visual inspection”).

<sup>26</sup> See, e.g., *Wilson*, 1 Cal. 4th at 715 (interpreting the compactness requirement in a since-repealed California constitutional provision).

<sup>27</sup> Cal. Elec. Code §§ 21500(c), 21601(c), 21621(c).

<sup>28</sup> See e.g., *Bush v. Vera*, 517 U.S. at 962 (“The Constitution does not mandate regularity of district shape.”). See also *Cano v. Davis*, 211 F. Supp. 2d 1208, 1222 (C.D. Cal. 2002), *aff’d*, 537 U.S. 1100 (2003) (finding that an oddly shaped district was not a racial gerrymander, since its shape was based on a variety of traditional redistricting criteria in addition to race, including communities of interest together and keeping local political subdivisions intact).

## Examples of Compactness

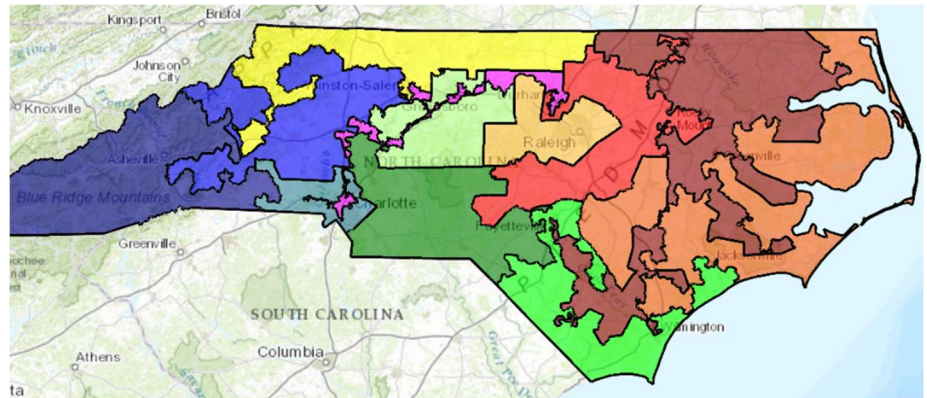
### Reasonably Compact, Multiple Factors Considered

In *Cano v. Davis*, 211 F. Supp. 2d 1208, 1222 (C.D. Cal. 2002), a 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.” 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.” As a result, the district was allowed to stand.



### Not Compact, Race Predominant Factor

In *Shaw v. Reno*, 509 U.S. 630 (1993) and *Shaw v. Hunt*, 517 U.S. 899 (1996), the United States Supreme Court considered North Carolina Congressional District 12, an African American majority district. The district is the skinny, bright pink district on the map below. The Court found that the map was predominantly shaped by racial considerations because it was “non-compact by any objective standard that can be conceived” and reportedly “the least geographically compact district in the Nation,”<sup>29</sup> and the Court had evidence that the line-drawers had created such a bizarre district because they had subjugated all other redistricting considerations, including compactness, to a desire to intentionally separate voters by race.<sup>30</sup> The district had to be redrawn.



<sup>29</sup> *Shaw v. Hunt*, 517 U.S. at 906.

<sup>30</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. *Shaw v. Hunt*, 517 U.S. at 916-18.

## ***Partisan Gerrymandering Is Prohibited***

Under the FAIR MAPS Act, cities and counties are now prohibited from considering partisan and party advantage when redrawing district lines or drawing district lines for the first time.<sup>31</sup> Removing partisan gerrymandering from local districting and redistricting, helps ensure a fair process that focuses on the needs and interests of communities.

## ***Counting Incarcerated People***

Under state law, in the 2020 redistricting cycle incarcerated individuals<sup>32</sup> will not be counted as part of the population in the county where they are incarcerated. If data are available regarding the last known place of residence of incarcerated individuals, they will be counted in their city and county of last residence for the purpose of redistricting.<sup>33</sup> Local governments may contract directly with demographers to procure this data, though it is likely to be available through the Statewide Database at UC Berkeley.

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<sup>31</sup> Cal. Elec. Code §§ 21500(d), 21601(d), 21621(d).

<sup>32</sup> Incarcerated individuals refers here to people held at state correctional facilities that are controlled by the Department of Corrections and Rehabilitation (Cal. Elec. Code §§ 21500(a)(2), 21601(a)(2), 21621(a)(2)).

<sup>33</sup> Cal. Elec. Code §§ 21500(a)(2), 21601(a)(2), 21621(a)(2).

## Public Outreach and Transparency Requirements

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Cities and counties should ensure that the local redistricting process is accessible and transparent. By taking active steps to encourage robust public participation, cities and counties will have stronger community of interest testimony and be better equipped to draw district maps that reflect the needs of their diverse constituents.

### Public Outreach and Engagement

#### *Hearings*

By law, cities and counties must hold at least four public hearings that enable community members to provide input on the drawing of district maps.<sup>34</sup>

- At least one hearing must occur before the city or county draws draft maps.<sup>35</sup>
- At least two hearings must happen after the drawing of draft maps.<sup>36</sup>
- The fourth hearing can happen either before or after the drawing of draft maps.

To increase the accessibility of these hearings, cities and counties must take the following steps:

- At least one hearing must occur on a Saturday, Sunday, or after 6 p.m. on a weekday.<sup>37</sup>
- If a redistricting hearing is consolidated with another local government meeting, the redistricting hearing portion must begin at a pre-designated time.<sup>38</sup>
- Local public redistricting hearings should be made accessible to people with disabilities.<sup>39</sup>

There is flexibility around how local redistricting hearings are conducted:

- City or county staff or consultants may hold a public workshop instead of one of the required public redistricting hearings.<sup>40</sup>

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<sup>34</sup> Cal. Elec. Code §§ 21507.1(a), 21607.1(a), 21627.1(a).

<sup>35</sup> Cal. Elec. Code §§ 21507.1(a)(1), 21607.1(a)(1), 21627.1(a)(1).

<sup>36</sup> Cal. Elec. Code §§ 21507.1(a)(2), 21607.1(a)(2), 21627.1(a)(2).

<sup>37</sup> Cal. Elec. Code §§ 21507.1(a)(2)(b), 21607.1(a)(2)(b), 21627.1(a)(2)(b).

<sup>38</sup> Cal. Elec. Code §§ 21507.1(a)(2)(d), 21607.1(a)(2)(d), 21627.1(a)(2)(d). If the local body is discussing another agenda item when the redistricting hearing portion is set to begin, they may first conclude the agenda item under discussion before moving to the redistricting hearing.

<sup>39</sup> Cal. Elec. Code §§ 21507.1(a)(2)(c), 21607.1(a)(2)(c), 21627.1(a)(2)(c).

<sup>40</sup> Cal. Elec. Code §§ 21507.1(a)(2)(e), 21607.1(a)(2)(e), 21627.1(a)(2)(e).

- Alternatively, local governments can designate an advisory commission to carry out the redistricting hearing required before draft maps are released.<sup>41</sup>

## **Translations**

Cities and counties must offer live translation of public redistricting hearings or workshops in applicable languages (defined below) if a request is made at least 72 hours in advance. If less than five days' notice is given for the hearing, then cities and counties must be prepared to fulfill translation requests received at least 48 hours in advance.<sup>42</sup>

### **“Applicable Languages”**

- For cities, applicable language refers to “any language that is spoken by a group of city residents with limited English proficiency who constitute 3 percent or more of the city’s total population over four years of age for whom language can be determined.” Cities can find the list of applicable languages for their city by visiting the Secretary of State’s local redistricting website.<sup>43</sup>
- For counties, applicable language refers to any language that the county must provide translated ballots in under Section 203 of the federal Voting Rights Act of 1965.<sup>44</sup>

## **Outreach**

In order to engage underrepresented and non-English speaking communities in the local redistricting process, cities and counties must make a good faith effort to do the following:<sup>45</sup>

- Share information about the local redistricting process with media organizations that cover news in that jurisdiction, including media organizations that reach language minority communities.<sup>46</sup>
- Share information via good government, civil rights, civic engagement, and community groups/organizations that are active in the jurisdiction, including groups that are actively involved in language minority communities.<sup>47</sup>

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<sup>41</sup> Cal. Elec. Code §§ 21507.1(a)(2)(f), 21607.1(a)(2)(f), 21627.1(a)(2)(f).

<sup>42</sup> Cal. Elec. Code §§ 21508(b), 21608(b), 21628(b).

<sup>43</sup> Cal. Elec. Code §§ 21608(h), 21628(h).

<sup>44</sup> Cal. Elec. Code §§ 21508(h).

<sup>45</sup> Cal. Elec. Code §§ 21508(a), 21608(a), 21628(a).

<sup>46</sup> Cal. Elec. Code §§ 21508(a)(1), 21608(a)(1), 21628(a)(1).

<sup>47</sup> Cal. Elec. Code §§ 21508(a)(2), 21608(a)(2), 21628(a)(2).



## **Public Feedback**

- Members of the public must be allowed to submit testimony and draft maps electronically or via writing.<sup>48</sup>

## **Ensuring Transparency**

### **Notices**

- The date, time, and location for any public redistricting hearings or workshops should be noticed on the internet at least five days in advance, although local governments can publish the agenda online at least three days in advance if fewer than 28 days before the deadline to adopt the maps.<sup>49</sup>
- Draft maps must be published on the internet at least seven days before adoption, although the draft map may be published online at least three days in advance if there are fewer than 28 days before the deadline to adopt the maps.<sup>50</sup>
- Each draft map prepared by the city or county must be accompanied by the following information: total population, citizen voting age population (CVAP), and racial and ethnic characteristics of the citizen voting age population of each proposed district.<sup>51</sup>

### **Recording**

- Cities and counties must provide an audio or audiovisual recording or a written summary of public comment and council deliberations at all public redistricting hearings or workshops. The recording or written summary must be made available within two weeks after the public hearing or workshop.<sup>52</sup>

### **Website**

- Cities and counties should create a dedicated redistricting web page and maintain it for at least ten years following the adoption of new district boundaries. This web page should include.<sup>53</sup>

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<sup>48</sup> Cal. Elec. Code §§ 21508(e), 21608(e), 21628(e).

<sup>49</sup> Cal. Elec. Code §§ 21508(c), 21608(c), 21628(c).

<sup>50</sup> Cal. Elec. Code §§ 21508(d)(1), 21608(d)(1), 21628(d)(1).

<sup>51</sup> Cal. Elec. Code §§ 21508(d)(2), 21608(d)(2), 21628(d)(2).

<sup>52</sup> Cal. Elec. Code §§ 21508(f), 21608(f), 21628(f).

<sup>53</sup> Cal. Elec. Code §§ 21508(g), 21608(g), 21628(g). Local governments can host this web page on their own existing website or on a separate website that they maintain.

- An explanation of the redistricting process for that jurisdiction in English and applicable languages.<sup>54</sup>
- Procedures for a member of the public to offer verbal testimony during a public hearing or submit written testimony directly to the governing body in English and applicable languages.<sup>55</sup>
- A calendar that lists the dates of all public redistricting hearings and workshops.<sup>56</sup>
- The notice and agenda for each public hearing and workshop.<sup>57</sup>
- Either the recording or written summary of each public hearing and workshop.<sup>58</sup>
- Each draft map that the city or county considers at public hearings.<sup>59</sup>
- The final adopted district map of the city or county.<sup>60</sup>

## Best Practices for Local Redistricting

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### Building Public Awareness through Robust and Translated Outreach

#### *Create outreach & publicity materials and distribute them through a variety of channels.*

To maximize the number of residents who are informed about the redistricting process, a jurisdiction should produce outreach & publicity materials and distribute them as widely as possible. A successful district map-drawing body (whether it is a city council, a school board, or some independent body) should hear from all of the communities and neighborhoods within a jurisdiction's limits, regardless of their language abilities, resources, or previous levels of engagement in local politics. The map-drawing body should spread the word about its work in local newspapers in various languages, at meetings of local community groups, in multilingual robo-calls, on digital marquee at local schools, in flyers sent home with school children, and so on. Simply publicizing the process on the jurisdiction's website and in a small number of newsletters and community newspapers is not enough.

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<sup>54</sup> Cal. Elec. Code §§ 21508(g)(1), 21608(g)(1), 21628(g)(1).

<sup>55</sup> Cal. Elec. Code §§ 21508(g)(2), 21608(g)(2), 21628(g)(2).

<sup>56</sup> Cal. Elec. Code §§ 21508(g)(3), 21608(g)(3), 21628(g)(3).

<sup>57</sup> Cal. Elec. Code §§ 21508(g)(4), 21608(g)(4), 21628(g)(4).

<sup>58</sup> Cal. Elec. Code §§ 21508(g)(5), 21608(g)(5), 21628(g)(5).

<sup>59</sup> Cal. Elec. Code §§ 21508(g)(6), 21608(g)(6), 21628(g)(6).

<sup>60</sup> Cal. Elec. Code §§ 21508(g)(7), 21608(g)(7), 21628(g)(7).

### ***Ensure that outreach & publicity materials are distributed in multiple languages.***

A jurisdiction should prepare outreach & publicity materials in a variety of languages so that word about redistricting spreads to all of the jurisdiction's language communities. Outreach materials about the redistricting process, information publicizing upcoming redistricting workshops and hearings, and the designated redistricting web page itself should be translated. A jurisdiction should translate outreach & publicity materials into at least all applicable languages which they are required to offer live translation in at public redistricting hearings or workshops. Translated materials should be shared with civic, cultural, and community organizations, posted online, and sent to ethnic news media sources, including print, web, and radio outlets. Ideally, translated materials should be shared with leaders from the relevant language communities before they are released publicly to make sure the materials are accurate, accessible, and culturally competent.

### ***Actively promote local redistricting via social media and local influencers.***

Create eye-catching and clear draft social media content to promote engagement in local redistricting. Call upon local elected officials, artists, community leaders, etc. to post about local redistricting on their social media channels. Purchase boosted ads on Instagram and Facebook to spread the word. Lastly, consider launching a social media campaign to alert community members to this process.

## **Maximizing Public Participation through Frequent and Accessible Hearings and Workshops**

### ***Hold more hearings than the legal minimum.***

The map-drawing body in a jurisdiction undergoing a redistricting process should hold a large number of hearings both before the drawing of draft maps and after the release of draft maps but before adoption of a final map. The statutory minimum is four hearings total, at least one during the first phase and at least two in the second. Four hearings, however, is likely not enough to gather input from a diverse set of community members. Holding more hearings provides community members with multiple opportunities to contribute and enables them to participate even if they learn about redistricting late in the process.

### ***Hold hearings in diverse locations.***

The map-drawing body should bring redistricting hearings and workshops directly to the community and meet residents where they naturally congregate. This means hearings should

be held in a diversity of locations, all of which should be accessible by public transit and be ADA-compliant. The map-drawing body should avoid holding all hearings in a single location, like a city hall building. This does not make hearings accessible to residents in all parts of the jurisdiction, especially those who do not have ready access to a car. Government buildings can also feel formal or intimidating to community members who aren't used to conducting business in those locations. Holding hearings in highly-trafficked community spaces such as libraries, community centers, or places of worship in different neighborhoods and parts of town maximizes accessibility and helps create a comfortable environment.

### ***Offer the public diverse hearing days and times.***

To allow residents with a variety of job and family commitments to participate, hearing dates and times should vary. Weekday hearings during business hours should never be used. If possible, hearings scheduled for weekday evenings should be held on different days of the week and should be mixed with weekend hearing dates.

### ***Create stand-alone redistricting hearings.***

Redistricting is a transformative experience in a jurisdiction's political life – it merits a different kind of treatment than the jurisdiction's other business. While a routine amount of public input may be acceptable for other items on the jurisdiction's agendas, it is insufficient on a topic that is critical to the jurisdiction's political future. Local governments should avoid embedding redistricting hearings in city council or school board meetings, and create standalone hearings instead. Local governments should also consider embedding these hearings into community meetings and events that engage diverse constituents who might not otherwise attend a city council, board of supervisors, or school board meeting.

### ***Livestream and/or record all hearings and post on the districting webpage.***

Although cities and counties may provide a written summary in place of an audio or audiovisual recording of redistricting hearings and workshops, posting a recording of hearings is helpful because it allows residents to follow mapping conversations and decisions more closely. Livestreaming the proceedings also increases the accessibility of redistricting meetings, as people can watch from home in real time and potentially even participate virtually if needed.

Recording hearings may present logistical challenges when hearings are held in community spaces instead of city hall buildings. Those challenges should be planned for and budgeted for in advance.

***Host numerous workshops to inform the public and gather community of interest testimony.***

In addition to formal public hearings, local governments should endeavor to host a number of educational and information-gathering workshops in the community to help residents identify priority communities of interest and draw them on a map. City or county staff should come prepared with large blank maps of the jurisdiction, laptops to access Google maps for reference (or printed maps that include key roads and thoroughfares), and pens.

***Offer technical support to help residents submit district maps.***

The redistricting process can be a fairly technical process. Local governments should be prepared to hold workshops that help residents understand redistricting criteria and how to submit a map whether it be via paper, excel, or a digital mapping software. Detailed tutorials and assistance in the form of workshops and office hours should be offered so community members can ask questions when drawing their district maps. If possible, cities and counties should reserve local computer labs at libraries or community centers to give residents greater access to relevant digital mapping software.

**Budgeting to Enable Robust Outreach and Accessible Hearings**

***Budget the money necessary to do redistricting right.***

A jurisdiction should budget for, among other things: finding and reserving diverse hearing locations, providing translation services to the public, paying city or county staff to work on evenings and weekends, doing robust outreach and publicity, and creating a webpage with a number of functionalities. The jurisdiction should consider whether to hire outside contractors for some tasks and services, such as scouting meeting locations, preparing outreach materials, engaging community organizations to educate members and encourage their participation, and providing translation services. One primary cost a jurisdiction will incur when redistricting is the hiring of a demographer. It is tempting to think of that as a “necessary” cost while outreach and accessibility costs are “optional” or a “luxury.” In truth, outreach and accessibility are essential if the jurisdiction wants its residents to understand and believe in the process.

## Timeline and Deadlines

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Local governments now have more standardized redistricting calendars. Counties, charter cities, and general law cities can begin releasing draft maps starting three weeks after the Statewide Redistricting Database is available with the most updated census data.<sup>61</sup> Local governments can hold public redistricting hearings and workshops to gather input before releasing draft maps, and should start the process early to get robust public testimony and engagement.

As a general rule, counties and cities must adopt districts no later than 205 days before the next regular election that occurs after January 1 in each year ending in the number two (2032, 2042, etc.).<sup>62</sup> However, special timelines apply for the 2021-2022 redistricting cycle, because of anticipated delays in the release of census data.

- For cities or counties with their next upcoming regular election between Jan. 1, 2022 and July 1, 2022, district maps must be adopted no later than 174 days before the election.<sup>63</sup>
- For cities or counties with their next upcoming regular election on or after July 1, 2022, district maps must be adopted no later than 205 days before the election.

**Charter City Exemption:** Charter cities that have adopted alternate redistricting deadlines either by ordinance or in their city charter before October 1 in each year ending in the number one are exempt from these redistricting deadlines.<sup>64</sup>

### Process for Missed Deadline

If cities and counties do not adopt district maps to meet their redistricting deadline in time, the city or county in question must petition the superior court of the relevant county for an order to adopt district boundaries. If the jurisdiction fails to do this within five days after the deadline, then any resident of the city or county can file the petition instead and will be eligible for reimbursement by the city or county for their reasonable attorney's fees and costs.<sup>65</sup>

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<sup>61</sup> Cal. Elec. Code §§ 21501(a), 21602(a), 21622(a).

<sup>62</sup> Cal. Elec. Code §§ 21501(a), 21602(a), 21622(a).

<sup>63</sup> Cal. Elec. Code §§ 21501(a), 21602(a), 21622(a). The forms for gathering signatures in lieu of a filing fee may not be made available until at least 28 days after the adoption of a final map. Accordingly, if a county or city adopts maps at the end of the redistricting window, the signature in lieu process will be shortened and the number of signatures required will be reduced.

<sup>64</sup> Cal. Elec. Code §§ 21622(b).

<sup>65</sup> Cal. Elec. Code §§ 21509(a), 21609(a), 21629(a).

If the superior court finds the petition to be valid, the following process will be used to adopt new district lines:

- The superior court will adopt district boundaries that align with the ranked criteria that cities and counties are required to use under the California Elections Code (see “Ranked Criteria” section above).
- The superior court, if needed, may order a change in electoral deadlines to ensure new district boundaries are in place in time for the next regular election.<sup>66</sup>
- The superior court may appoint a special master to help the court adopt district boundaries and the city or county will pay the cost of this special master and other associated costs.<sup>67</sup>
- Either the superior court or the special master will hold at least one public redistricting hearing before the court adopts the final district boundaries.<sup>68</sup>
- The special master will be given access to necessary resources and experts to carry out the successful drafting of district maps:<sup>69</sup>
  - The special master may hire redistricting experts or relevant consultants, independent experts in the field of redistricting and computer technology, and other necessary personnel to assist them.
  - The special master may request support from the city or county to use or produce any data, computer models and programs, and technical assistance.
  - The superior court may help the special master in securing necessary personnel and facilities for their work and assist with submitting a request to the city or county for funding to cover expenses that the special master or their staff incur.

**Charter City Exemption:** Charter cities are exempt from this process if they have specified in their charter an alternative method for adopting city council district boundaries in the case of a missed redistricting deadline.<sup>70</sup>

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<sup>66</sup> Cal. Elec. Code §§ 21509(b)(1), 21609(b)(1), 21629(b)(1).

<sup>67</sup> Cal. Elec. Code §§ 21509(b)(2), 21609(b)(2), 21629(b)(2).

<sup>68</sup> Cal. Elec. Code §§ 21509(b)(3), 21609(b)(3), 21629(b)(3).

<sup>69</sup> Cal. Elec. Code §§ 21509(b)(4), 21609(b)(4), 21629(b)(4).

<sup>70</sup> Cal. Elec. Code § 21629(c).

## Local Redistricting Commissions

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### Redistricting Commissions Defined

#### *What is a redistricting commission?*

A redistricting commission is an independent body made up of members of the public that will recommend or even decide the next district map.<sup>71</sup> By allowing everyday residents to take the lead instead of elected officials, local governments can reduce the risk of political biases influencing final district boundaries, increase public trust in the redistricting process, and spur greater future involvement in local decision-making. General law cities, charter cities, school districts, community college districts, special districts, and counties can create these commissions via resolution, ordinance, or charter amendment.<sup>72</sup>

#### *What types of redistricting commissions are there?*

Local governments can create three types of redistricting commissions which vary in their functions and level of decision-making power:<sup>73</sup>

**Advisory Redistricting Commission:** This redistricting body makes recommendations to the legislative body about new district boundaries.<sup>74</sup>

**Hybrid Redistricting Commission:** This redistricting body may recommend two or more maps for the legislative body to choose from and adopt without modification (except where needed in order to ensure compliance with state or federal law).<sup>75</sup>

**Independent Redistricting Commission:** This redistricting body has the greatest level of decision-making power because it can adopt district boundaries for a given legislative body.<sup>76</sup>

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<sup>71</sup> Cal. Elec. Code § 23001.

<sup>72</sup> Cal. Elec. Code §§23000(f), 23001.

<sup>73</sup> Cal. Elec. Code §§ 23000(a)-(d), 23001.

<sup>74</sup> Cal. Elec. Code § 23000(a).

<sup>75</sup> Cal. Elec. Code § 23000(c).

<sup>76</sup> Cal. Elec. Code § 23000(d).



## Requirements for the Formation of a Local Redistricting Commission

### *Advisory Redistricting Commissions*

#### Eligibility Restrictions

The following individuals are ineligible to serve on an advisory redistricting commission: elected officials of the local jurisdiction and family members, staff members, and paid campaign staff of elected officials of the local jurisdiction.<sup>77</sup>

#### Appointment Process

Local jurisdictions may decide how members are appointed to the advisory redistricting commission.<sup>78</sup>

#### Other Commission or Commissioner Requirements and Restrictions

Local jurisdictions are free to enact additional requirements or restrictions on the commission, commissioners, or applicants.<sup>79</sup>

**Charter City Exemption:** Charter cities are not required to follow the eligibility restrictions identified for advisory redistricting commissions.<sup>80</sup> However, advisory redistricting commissions in charter cities are required to follow the same redistricting deadlines, requirements, and restrictions that would apply if the legislative body of the charter city completed the redistricting process.<sup>81</sup>

### *Hybrid and Independent Redistricting Commissions*

#### Eligibility Restrictions

1. These individuals are ineligible to serve on a hybrid or independent redistricting commission:
  - A person who has been elected, appointed to, or run as a candidate for an office of the local jurisdiction within the last eight years, or has a family member who has done so.<sup>82</sup>

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<sup>77</sup> Cal. Elec. Code § 23002(c).

<sup>78</sup> Cal. Elec. Code § 23002(b).

<sup>79</sup> Cal. Elec. Code § 23002(d).

<sup>80</sup> Cal. Elec. Code § 23000(f).

<sup>81</sup> Cal. Elec. Code § 21630.

<sup>82</sup> Cal. Elec. Code § 23003(c).

- A person or their spouse who has done one of the following within the last **eight** years or a person with a family member other than their spouse who has done one of the following within the last **four** years:<sup>83</sup>
  - Served as an officer of, employee of, or paid consultant to a campaign committee or a candidate for elective office of the local jurisdiction.<sup>84</sup>
  - Served as an officer of, employee of, or paid consultant to a political party.<sup>85</sup>
  - Served as an elected or appointed member of a political party central committee.<sup>86</sup>
  - Served as a staff member or consultant to, or has contracted with, a currently serving elected officer of the local jurisdiction.<sup>87</sup>
  - Been registered to lobby the local jurisdiction.<sup>88</sup>
  - Contributed 500 dollars (or more) in a year to any candidate for an elective office of the local jurisdiction.<sup>89</sup>

2. All members of the commission cannot be registered to vote with the same political party.<sup>90</sup>

### Appointment Process

Local jurisdictions can decide how members will be appointed to the commission given that the following requirements are met:

- There must be an open application process that is open to all eligible residents.
- Commissioners cannot be directly appointed by the legislative body or an elected official of the local jurisdiction.<sup>91</sup>

### Restrictions on Commissioner Conduct

A member of the local redistricting commission cannot:

- Endorse, work for, volunteer for, or make a campaign contribution to a candidate for an elective office of the local jurisdiction while serving on the commission.<sup>92</sup>
- Serve as a candidate for an elective office of the local jurisdiction, following service on

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<sup>83</sup> Cal. Elec. Code §§ 23003(d)(1), 23003(d)(2).

<sup>84</sup> Cal. Elec. Code §§ 23003(d)(1)(A), 23003(d)(2)(A).

<sup>85</sup> Cal. Elec. Code §§ 23003(d)(1)(B), 23003(d)(2)(B).

<sup>86</sup> Cal. Elec. Code §§ 23003(d)(1)(B), 23003(d)(2)(B).

<sup>87</sup> Cal. Elec. Code §§ 23003(d)(1)(C), 23003(d)(2)(C).

<sup>88</sup> Cal. Elec. Code §§ 23003(d)(1)(D), 23003(d)(2)(D).

<sup>89</sup> Cal. Elec. Code §§ 23003(d)(1)(E), 23003(d)(2)(E).

<sup>90</sup> Cal. Elec. Code §§ 23003(f).

<sup>91</sup> Cal. Elec. Code § 23003(b).

<sup>92</sup> Cal. Elec. Code § 23003(e)(1).

the local districting commission, if one of the following conditions is met:<sup>93</sup>

- Less than five years have passed since their appointment to the commission.<sup>94</sup>
- The election for that office will use district boundaries that were adopted by the commission on which the member served, and those boundaries have not since been readopted by a commission following the end of the member's term.<sup>95</sup>
- The election for that office will use district boundaries that were adopted by a legislative body following the recommendation by a commission on which the member served, and those boundaries have not since been readopted by a legislative body according to the recommendation of a commission after the member's term ended.<sup>96</sup>
- For **four** years from the date of their appointment to the commission, do the following:<sup>97</sup>
  - Work as a staff member of or consultant to an elected official or candidate for elective office of the local jurisdiction.
  - Receive a non-competitively bid contract with the local jurisdiction.
  - Register as a lobbyist for the local jurisdiction.
- For **two** years from the date of their appointment to the commission, become appointed to an office of the local jurisdiction.<sup>98</sup>

### ***Other Commission Requirements and Restrictions***

- The commission is prohibited from drawing districts to favor or discriminate against a political party, incumbent, or political candidate.
- The commission must adhere to the Ralph M. Brown Act and California Public Records Act.<sup>99</sup>
- The commission must follow the same redistricting deadlines, requirements, and restrictions that the local legislative body must follow. The local jurisdiction can also place further requirements and restrictions on the commission, members of the commission, or applicants.<sup>100</sup>

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<sup>93</sup> Cal. Elec. Code § 23003(e)(2).

<sup>94</sup> Cal. Elec. Code § 23003(e)(2)(A).

<sup>95</sup> Cal. Elec. Code § 23003(e)(2)(B).

<sup>96</sup> Cal. Elec. Code § 23003(e)(2)(C).

<sup>97</sup> Cal. Elec. Code § 23003(e)(3).

<sup>98</sup> Cal. Elec. Code § 23003(e)(4).

<sup>99</sup> Cal. Elec. Code § 23003(h).

<sup>100</sup> Cal. Elec. Code § 23003(i).

**Charter city exemption:** Charter cities are not subject to the above requirements for hybrid and independent redistricting commissions. However, hybrid and independent redistricting commissions in charter cities are required to follow the same redistricting deadlines, requirements, and restrictions that would apply if the legislative body of that charter city completed the redistricting process.<sup>101</sup>

To learn more about best practices and the process of establishing local redistricting commissions, see the report “California Local Redistricting Commissions” (Heidorn 2017), which can be found on the [California Local Redistricting Project](#) website.

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<sup>101</sup> Cal. Elec. Code § 21630.