

Redistricting Criteria- And Conflicts

**NEW YORK
LAW SCHOOL**

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Unprioritized Criteria (NYS Constitution)

- Consider whether lines would result in the denial or abridgement of racial or language minority voting rights, and districts cannot be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights based on a totality of the circumstances test.
- To the extent practicable, district populations shall all be equal, for each district that deviates from this requirement, an explanation is required.
- Each district shall be contiguous
- Each district shall be compact in form as practicable
- Districts shall not discourage competition and cannot favor or disfavor incumbents or candidates
- Consider cores of existing districts
- Consider pre-existing political subdivisions, including counties, cities, towns and communities of interest

Prioritized/Ranked Criteria- (NYC Council)

- § 52. District plan; criteria. 1. In the preparation of its plan for dividing the city into districts for the election of council members, the commission shall apply the criteria set forth in the following paragraphs to the maximum extent practicable. The following paragraphs shall be applied and given priority in the order in which they are listed.
 - a. The difference in population between the least populous and the most populous districts shall not exceed ten percentum (10%) of the average population for all districts, according to figures available from the most recent decennial census. Any such differences in population must be justified by the other criteria set forth in this section.
 - b. Such districting plan shall be established in a manner that ensures the fair and effective representation of the racial and language minority groups in New York city which are protected by the United States voting rights act of nineteen hundred sixty-five, as amended.
 - c. District lines shall keep intact neighborhoods and communities with established ties of common interest and association, whether historical, racial, economic, ethnic, religious or other.

Prioritized Criteria, continued

- d. Each district shall be compact and shall be no more than twice as long as it is wide.
 - e. A district shall not cross borough or county boundaries.
 - f. Districts shall not be drawn for the purpose of separating geographic concentrations of voters enrolled in the same political party into two or more districts in order to diminish the effective representation of such voters.
 - g. The districting plan shall be established in a manner that minimizes the sum of the length of the boundaries of all of the districts included in the plan.
2. Each district shall be contiguous, and whenever a part of a district is separated from the rest of the district by a body of water, there shall be a connection by a bridge, a tunnel, a tramway or by regular ferry service.
 3. If any district includes territory in two boroughs, then no other district may also include territory from the same two boroughs.

Communities Of Interest

- A group of individuals who are likely to have comparable legislative and community concerns based on similarities and who therefore would benefit from cohesive representation in the legislature.
- Can include economic, social, cultural, geographic, educational, racial, ethnic, medical, or other historic identities.
- Because of the subjective and malleable nature of a COI, there are numerous ways in which groups can be identified. For example, COIs can be constructed from, among others, ethnic/racial groups, religious groups, areas within a single school district, cities with shared transportation routes, and counties with shared broadcast and print media.
- a COI cannot be based on political parties, officeholders, or political candidates—redistricting based on a group's shared political interests would simply be a form of partisan gerrymandering.

One Of The Newer and More Popular

- 24 states reference Communities of Interest for state legislative districts
- 13 states reference Communities of Interest for congressional districts

Weighing Communities Of Interest

- balance COI considerations along with other traditional districting principles;
- backlash over the use of COI considerations;
- the need to balance conflicting testimony from community groups;
- inadequate feedback from identifiable COI groups due to a lack of awareness of the redistricting process;
- the need to hire adequate staff to organize and parse through COI written submissions and public testimony; and
- concerns regarding the constitutionality of using race as a factor in identifying COI.

Evaluating Communities of Interest

- When balancing other traditional criteria, COI usually ranks below population equality and minority voting rights and above all the others
- Concerns: Can Communities of Interest camouflage partisan gerrymandering?
- Are Communities of Interest too subjective?
- Could use of Communities of Interest lead to strangely shaped districts?
- When should Communities of Interest be more important than established “actual” communities (towns, villages, etc.)?

COI Trade Offs

- Should communities of interest rank just below population equality & minority voting rights (federal law)?
- What about traditional redistricting criteria?
- Would a map with a slight partisan imbalance be justified if it's caused by keeping COIs intact?
- Does compactness matter if COIs better indicate peoples' interests?
- Do shapes still matter if COIs are deemed more important?

Gerrymandering In Disguise?

- Will use of COIs lead to camouflaged partisan gerrymanders?
- Do COIs inject too much subjectivity and arbitrariness into the process?
- Are COIs more responsive to special interest groups as opposed to individual voters?
- Should districts focus on “actual” communities (counties, towns, villages) instead of subjective considerations?

Balancing Conflicts?

- What if communities disagree?
- 2001 Arizona example
- How informed are witnesses?

Too Much Information?

- California's 2011 commission received 2,365 public hearing comments
- 1,385 focused on COIs
- Overall, California received 12,425 written comments
- 7,138 specifically addressed COIs
- Will your state have enough funding and staff to evaluate all the comments?

COIs and Race

- Be mindful of the 14th Amendment Equal Protection Clause
- Will COIs lead to using race as a predominant factor?
- Make sure that race is one of several factors being used

Questions To Think About

Do you want the most compact map, where the districts look the best when we eyeball them?

-That can produce partisan results.

Do we want a map that keeps counties and towns in the same districts that respects communities of interest?

Without ranking criteria, everything is a tradeoff except for population equality and federal Voting Rights Act compliance.

Stay In Touch

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