

Redistricting Commission

Redistricting Principles: Balancing of Redistricting Criteria

Deputy City Attorneys Jennifer Berry and Kathy Steinman
Legal Intern Lauren Holt
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Redistricting Review

- Redistricting Plan must comply with:
 - U.S. Constitution
 - Equal Protection: “One Person, One Vote”
 - Federal Voting Rights Act of 1965 and subsequent amendments
 - San Diego City Charter §§ 5 and 5.1
 - Related statutes and case law interpreting redistricting plans and criteria

Traditional Redistricting Principles: Review

- Districts are to have equal population, but also:
 - Be composed of contiguous territory
 - Be geographically compact
 - Preserve “identifiable communities of interest”
 - Have reasonable access between population centers
 - Be bounded by natural boundaries, street lines and/or City boundary lines

Compactness & Contiguity: Review

To the extent it is practical to do so, districts shall be:

- “...as geographically compact as possible...”
 - Is the district a regular or bizarre shape?
 - Are boundary lines jagged or smooth?
- “...composed of contiguous territory with reasonable access between population centers in the district.” “...populous contiguous territory shall not be bypassed to reach distant populous areas.”
 - A district should be a single, unbroken shape.
 - All parts of the district should be attached and connected to each other.

Why Balance?

- Not all redistricting criteria may be achieved equally in each district; some criteria may conflict in certain areas, such as communities of interest which split census units.
- Balancing criteria in such instances is necessary to resolve these conflicts.

Sources of Guidance

Sources of guidance include:

1. The Charter
2. Federal Case Law
3. California's Fair Maps Act
4. Lessons from 2010

1. Charter Section 5.1 Requirements

- Districts formed by the Redistricting Commission shall each contain, as nearly as practicable, one-ninth of the total population of the City as shown by the Federal Decennial Census immediately preceding such formation of districts.
- Each redistricting plan shall provide fair and effective representation for all citizens of the City, including racial, ethnic, and language minorities, and be in conformance with the requirements of the United States Constitution and federal statutes.
- To the extent it is practical to do so, districts shall:
 - preserve identifiable communities of interest;
 - be geographically compact;
 - be composed of whole census units as developed by the United States Bureau of the Census;
 - be composed of contiguous territory with reasonable access between population centers in the district; and
 - not be drawn for the purpose of advantaging or protecting incumbents.

2. Guidance from Federal Case Law

- The U.S. Supreme Court and U.S. Ninth Circuit Court of Appeals recognize the following “traditional redistricting factors” in adopting district boundaries:
 - Compactness;
 - “Compactness...is critical to advancing the ultimate purposes of [VRA] § 2, ensuring minority groups equal ‘opportunity . . . to participate in the political process and to elect representatives of their choice.’ 42 U.S.C. § 1973(b).”
League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 434 (2006)
 - Contiguity of territory; and
 - Preserving communities of interest
- Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 795 (2017); *Shaw v. Reno*, 509 U.S. 630, 657 (1993)(emphasizing these factors as “important”).

2. Guidance from Federal Rulings

- The U.S. Supreme Court additionally recognizes as redistricting factors:
 - Easily understandable and identifiable boundaries:
 - “[The shapes of the districts] exhibit utter disregard of city limits, local election precincts, and voter tabulation district lines...This caused a severe disruption of traditional forms of political activity. Campaigners seeking to visit their constituents ‘had to carry a map to identify the district lines, because so often the borders would move from block to block’; voters ‘did not know the candidates running for office’ because they did not know which district they lived in.” *Bush v. Vera*, 517 U.S. 952, 974 (1996).
 - Respecting natural and artificial barriers:
 - See above—*Bush v. Vera*, 517 U.S. 952, 974 (1996)
- However, the U.S. Supreme Court and U.S. Ninth Circuit Court of Appeals have been silent on the comparative importance and weight of each factor.
 - The Supreme Court gives deference on priority of criteria to state legislative policies so long as they are consistent with the U.S. Constitution. *Tennant v. Jefferson Cty. Comm'n*, 567 U.S. 758, 760 (2012)

2. Guidance from Federal Rulings

Charter Section 5.1 Criteria Reminder:

- preserve identifiable communities of interest;
- be geographically compact;
- be composed of whole census units as developed by the United States Bureau of the Census;
- be composed of contiguous territory with reasonable access between population centers in the district; and
- not be drawn for the purpose of advantaging or protecting incumbents.

Remember: Criteria for redistricting can be used beyond that endorsed by federal case law, so long as the criteria is in accordance with the U.S. Constitution. Recognition by federal courts is just one consideration in balancing redistricting criteria.

3. California's Fair Maps Act

- Passed in 2019 and amended in 2020, the Fair Maps Act made several changes to California's Election Code in order to standardize redistricting across counties, charter cities, and general law cities

Cal. Elec. Code § 21621(c):

- The council shall adopt district boundaries using the following criteria as set forth in the following order of priority:
 - (1) To the extent practicable, council districts shall be geographically contiguous.
 - (2) To the extent practicable, the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes its division.
 - (3) Council district boundaries should be easily identifiable and understandable by residents. To the extent practicable, council districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the city.
 - (4) To the extent practicable, and where it does not conflict with the preceding criteria in this subdivision, council 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.
- BUT charter cities which meet certain requirements are exempt from this...

3. California's Fair Maps Act

An amendment to the Fair Maps Act added Cal. Elec. Code § 21621(e), which states that:

- Subdivision (c) does not apply to a charter city that has adopted comprehensive or exclusive redistricting criteria in its city charter. For purposes of this subdivision, “comprehensive or exclusive” means either that
 - the city’s charter excludes consideration of redistricting criteria other than those that are identified in the city charter **or**
 - that the city’s charter provides two or more traditional criteria for redistricting other than the requirement that districts be equal in population.
- As a charter city, does San Diego meet the requirements to be exempt from the criteria and prioritization of the Fair Maps Act?...

3. California's Fair Maps Act

YES, San Diego's charter meets the requirements of Cal. Elec. Code § 21621(e) and **is exempt from following the criteria and prioritization of that criteria** listed in Cal. Elec. Code § 21621(c).

- Recall: Cities with charters that list two or more traditional criteria for redistricting other than the requirement that districts be equal in population have “comprehensive” criteria exempting the city from following Subdivision (c).
- Charter Section 5.1 lists five criteria for redistricting other than the requirement that districts be equal in population:
 - (1) preserving communities of interest, (2) compactness, (3) composition of whole Census units, (4) contiguity, and (5) no purposeful advantaging or protecting of incumbents.

Thus, San Diego's Charter has “comprehensive” criteria and is exempt. **The Commission is not bound by the Fair Maps Act's criteria or prioritization.**

4. Lessons from 2010

In preparing the Final Plan, the 2010 Redistricting Commission followed these principles:

- Equalize the population;*
- Avoid diluting the voting strength of protected classes as set forth in the federal Voting Rights Act of 1965;*
- Provide fair and effective representation for all citizens of the City and be in conformance with the requirements of the U.S. Constitution and federal statutes;*
- Use contiguous territory, with reasonable access between population centers in the district;**
- Use whole Census tracts and blocks to the extent practicable;**
- Preserve identifiable communities of interest;**
- Observe natural boundaries as district dividing lines;
- Draw districts as geographically compact as possible;**
- Not draw districts to advantage or protect incumbents;**
- Ensure that each community planning area is intact in a single district to the extent possible.

*Federal & constitutional requirements | **Charter requirements

3. Lessons from 2010

Examples of balancing in the 2010 Final Plan

- Using contiguous territory, with reasonable access between population centers in the district
 - Ex. District 8: “This district is geographically contiguous to the extent possible because of the need to equalize the population and connect population in the South Bay to population in the north.”
- Drawing districts as geographically compact as possible
 - Ex. District 5: “Although the Commission did not wish to split communities...a portion of Ranchos Peñasquitos was removed from this district to achieve population equality.”
- Observing natural boundaries as district dividing lines
 - Ex. District 3: “The Commission removed portions of of City Heights from District 3 as City Heights does not generally share demographic and socioeconomic interests similar to other neighborhoods in this district, and to allow City Heights to be united into a single [] district.”

3. Lessons from 2010

Examples of balancing in the 2010 Final Plan:

- Preserving communities of interest
 - Ex. District 2: "USD is a community of interest that needs to be kept as intact as possible. One Census block within it was determined to be too large and thus was split to unite the USD campus."
 - Ex. District 3: "The addition of Little Italy added a slightly higher deviation to for the district, but its inclusion with the rest of downtown was a compelling reason to include it with District 3."
- Preserving community planning areas:
 - Ex. District 1: "A portion of the land east of Interstate 805 [(a natural boundary)] was included to keep the University Community Planning Area intact."

Summary

- Strict population equality is most important.
- All traditional redistricting principles must be balanced against each other.
 - As discussed today, districts must comply with the City's charter to the extent practicable, but balancing is necessary where not all criteria can be met to the maximum extent in a single district.
- The Charter, the Fair Maps Act, federal rulings, and the 2010 Final Plan may be looked to guidance in balancing.

Questions?