

Redistricting: the struggle to create fair districts

Redistricting is the process for adjusting the political boundary lines for every elected office at the state, county and municipal level for which candidates run for office from districts or wards.

Redistricting is generally done every 10 years after the new census data is released by the federal Bureau of Census in Washington, DC. The next census will be taken in 2010 and the data will be released in early 2011.

The 2000 Census data will be released in early 2010. The new census data show whether the population of each state has increased, stayed about the same, or decreased. The census count will be used to re-apportion the number of Congressional representatives among the states. The census count will also be used to re-draw political districts at the state, county and municipal levels, including school boards, judicial districts and another elected positions elected by districts or wards.

Community people have an absolute right to participate in the redistricting process.

Community people can:

1. Submit their own redistricting plans to the decision-making body;
2. Testify at public hearings held to review redistricting plans;
3. Negotiate with their public officials about what constitutes a "fair plan" and how such redistricting plan should look;
4. Make sure that the decision-making body sends the community's redistricting plans to the Justice Dept. for review along with the redistricting plan submitted by the decision-making body;
5. Comment in writing and by phone with the Justice Dept. during the pre-clearance process;
6. Review the Justice Dept. determination and negotiate with Justice Dept. officials;
7. Bring a lawsuit under the 1965 Voting Rights Act.

Redistricting must comply with the law

There are two fundamental principles, embodied in law, with which all redistricting efforts must comply:

1. One person - one vote, under the 14th Amendment, and
2. The 1965 Voting Rights Act, as amended by Congress and interpreted by the US Supreme Court.

The 1965 Voting Rights Act was passed to protect the right to vote guaranteed by the 15th Amendment to the US Constitution.

Section 2 of the Voting Rights Act prohibits any law, rule, regulation or scheme which dilutes minority voting strength. Sect. 2 applies to all 50 states.

Section 5 of the Voting Rights Act applies to specific states, primarily in the South, with a history of systematic exclusion of minorities from the right to vote. Sect. 5 requires that any change in voting laws, redistricting plans, and polling places be pre-cleared by the US Justice Dept. before becoming effective

States entirely subject to Section 5:

Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia.

States subject only in part to Section 5:

California, Florida, Michigan, New Hampshire, New York, North Carolina, and South Dakota

Tools used to undermine the voting rights of people of color

Packing is a redistricting device to concentrate more Black or Hispanic voters than are necessary to have an electable Black or Latino district, in a single or small number of districts, to prevent the community of color from winning enough seats to gain a majority of votes on a municipal or county board, or to win enough seats at the state level, to impact the formation of public policy.

Cracking is a redistricting device by which concentrations of Black or Latino voters are divided up or fragmented among several districts or wards, to prevent the community of color from winning enough seats to gain a majority of votes on a municipal or county board, or to win enough seats at the state level, to impact the formation of public policy.

Stacking is a redistricting tactic to concentrate very low income Black or Latino citizens, with less education, in the same district with whites with high income and more education to create the illusion of a majority Black or Latino district. *Voter turnout* is affected by the level of income and education. People with less income and education tend not to vote to the same extent as those with more income and education. The white candidate will have the best chance to win because of lower minority voter turnout and racial bloc voting.

Racial bloc voting refers to the situation where there is a Black or Latino candidate running against a white candidate and virtually all white voters cast their ballots for the white candidate regardless of the fact that the Black or Latino candidate is or may be more qualified for the position than the white candidate.

Stovepiping is a redistricting tactic used to connect two parts of a district that are geographically separated. This has been used to create majority white districts, to pack Black or Latino majority districts, to crack concentrations of Black or Latino voters, to stack low income Black or Latino areas with high income white areas, and to gerrymander bizarre-looking districts to ensure either a Democratic party or Republican party majority in the district.

Phantom Black or Latino (or other minority) majority districts refers to the creation of districts that are, according to the general population statistics (*total population data*), *technically* majority Black or Latino, but that are *not* districts in which Black or Latino candidates can get elected. In these districts, the *total* Black or Latino population is in the majority -- above 50 percent. But, in Mississippi, for example, the Black community has more young people under the age of 18 than the white community. Therefore, the *black voting age* population averages

about 5% lower than the *total* population. For example, if the total Black population % is 53%, the total Black voting age % will be about 48%.

Racial bloc voting and lower minority voter turnout will make it more difficult to win for a candidate who is a person of color.

Aberration elections

There are some situations in which minority candidates have won elections in districts where the minority voting age population has been less than 50%. This does not mean that such a situation can readily be duplicated elsewhere. Here are circumstances that explain an aberration or unusual election:

1. A single Black or Latino candidate ran against 2 white candidates who split the white vote.
2. A Black or Latino person was appointed to fill a vacancy and ran in the election as the incumbent.
3. The white candidate in the race did something to anger the white community and white voters didn't turn out.
4. The white community has identified a Black or Latino candidate who will be more loyal to white interests than Black or Latino interests and the white community will support that Black or Latino candidate against any other Black or Latino candidates.

The Principles of Redistricting

In 1990 the principles on which redistricting was based were relatively simple:

1. Meet the deviation requirements under 1 person 1 vote.
2. Create electable Black or Latino districts wherever possible to implement the goals of the 1965 Voting Rights Act.
3. All parts of the district must be contiguous -- that is, they must connect together at some point.

In 2010 the deviation and contiguity requirements should remain the same. However, the rules regarding "race" have changed dramatically, as we will see.

The "rules of the game" have changed!

In 1990 the principles to guide the redistricting work were fairly simple:

1. Satisfy the deviation requirements of 1 person 1 vote; and
2. Comply with the 1965 Voting Rights Act by creating electable Black or Latino districts wherever possible.

But, between 1993 and 2001 the principles for redistricting under the Voting Rights Act changed dramatically because of US Supreme Court decisions. In 2009 the US Supreme Court is on the verge of changing the rules again! The US Supreme Court has ruled that it is *unconstitutional* to draw districts based primarily on race. But -- race can be a factor if race is one among many factors used to draw a redistricting plan.

To keep it simple --

It is extremely important to understand how to explain the factors used to draw the plan to protect the plan from attack on constitutional grounds.

How to apply the new rules in 2010 to draw *fair* political districts in compliance with the 1965 Voting Rights Act and the standards set by the US Supreme Court --

Consider these “8 factors” when drawing a plan:

1. Keep deviation within “1 person 1 vote” rule
2. Compactness of the districts
3. No retrogression
4. No dilution of Black or Latino voting strength
5. Protection of incumbents
6. Political party affiliation and voting behavior
7. Cohesion of communities
8. Communities of interest

FACTOR #6: Political party affiliation and voting behavior

It is permissible to draw districts to favor Democrats or Republicans. Such purely "political" considerations are not prohibited. In many areas of the South voting behavior (i.e. preference for Democrats or Republicans) *and* race coincide. In such situations, we can take voting behavior into account when drawing plans and it does not mean that race is the predominant factor.

FACTOR #7: Cohesion of Communities

When putting people together within district boundary lines, it is appropriate to consider whether the communities within the district can work together to support candidates that will be accountable to their needs. Cohesion of communities means that the communities are able to work together. It is permissible to assess the history of the various communities to determine in which district to place each community. When communities cannot work together, the district becomes politically dysfunctional.

FACTOR #8: Communities of Interest

When drawing district lines it is permissible to take into account the *communities of interest* that exist among families, neighborhoods and communities. Some of these common interests are:

1. Access to a first rate public education
2. Suitable, affordable housing
3. Economic development that benefits grassroots communities
4. Access to effective, affordable health care
5. Fair and equitable treatment by law enforcement
6. Affordable, effective representation in the courts
7. Fair, equitable access to lending institutions
8. Effective access to the political process

In Summary:

Redistricting is not an engineering exercise created by demographers according to objective math or geometric principles. Rather, it is a political process in which every person drawing a plan is following an agenda intended to accomplish specific results or outcomes. A fair plan is one that is fair to all members of the community. "Fair" means that the plan helps to eliminate the history of exclusion! "Fair" means that the principles of the 1965 Voting Rights Act are fulfilled and that Black and Latino communities have a reasonable opportunity to elect representatives that will be accountable to their needs.