

SUMMARY OF REDISTRICTING LAW AND CRITERIA

LOS ANGELES UNIFIED SCHOOL DISTRICT
REDISTRICTING COMMISSION

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January 13, 2021

Overview of Redistricting Laws

Laws Relevant to Redistricting:

- Los Angeles City Charter
- U.S. Constitution
- Federal Voting Rights Act
- California Elections Code
- California Constitution
- Case Law

Los Angeles City Charter – Framing the Legal Criteria and Issues

- LA City Charter Provides for LAUSD Redistricting
 - As authorized by the California Constitution
 - As approved by LAUSD voters
- City Charter re Redistricting
 - Charter divides the LAUSD into 7 Districts (§ 801)
 - Charter requires that LAUSD District lines be redrawn at least every 10 years (§ 802)
 - Charter creates LAUSD Redistricting Commission to obtain public input, prepare a redistricting proposal, and present it to the City Council (§ 802)
 - Charter provides the City Council with the ultimate authority to adopt a redistricting plan for LAUSD (§ 802)

Los Angeles City Charter – Framing the Legal Criteria and Issues

- City Charter re Redistricting Standards
 - Charter requires that LAUSD districts “contain, as nearly as practicable, equal portions of the total population of” the LAUSD (§ 802(c))
 - Charter requires that districts conform to state and federal redistricting law (§ 802(d))
 - Charter requires that districts “keep neighborhoods and communities intact, utilize natural boundaries or street lines, be geographically compact, and conform to high school attendance zones” to the extent feasible (§ 802(d))

Los Angeles City Charter – Framing the Legal Criteria and Issues

- City Charter frames several key legal concepts:
 - Equal Population Principle
 - Traditional Redistricting Criteria
 - U.S. Constitution's Equal Protection Clause
 - Federal Voting Rights Act

Equal Population Principle

- General Principle: Districts must be substantially equal in population
 - U.S. Constitution's Equal Protection Clause and "One-Person, One-Vote" Jurisprudence (e.g., *Reynolds v. Sims*)
 - City Charter § 802 (equal portions of "the total population" of LAUSD "as nearly as practicable")
 - California Elections Code § 21621 ("substantially equal" in "total population" as required by the U.S. Constitution)

Equal Population Principle

- Make good faith effort to draw equipopulous districts
- Exact equality not required for local districts if deviation is justified by legitimate state purposes
- Deviation of <10% is presumptively valid
 - Only if for legitimate reasons
 - Deviations should be explained based on traditional redistricting criteria or other lawful justifications
- Legal Authorities – City Charter; U.S. Constitution; Supreme Court Case law re equal population principle including *Reynolds v. Sims*, *Gaffney v. Cummings*, *Larios v. Cox*, *Harris v. Arizona Independent Redist. Comm.*

Equal Population Principle

- Deviations from equal population must be justified
 - Show consistent reliance on traditional redistricting criteria (e.g., respecting neighborhoods and communities of interest, observing natural and other boundaries, maintaining compact districts)
 - Do not seek to disadvantage one particular group
 - Show good faith effort

Equal Population Principle

- Measuring Population Equality and Deviation
 - Start with LAUSD's total population
 - Determine ideal equal population of the 7 Districts
 - Determine percent deviation from ideal for each district
 - Determine total percent deviation – difference between the districts with the greatest positive and negative percent deviations

Equal Population Principle

District	Total Population	Ideal Population	Percent Deviation
1	100,000	100,000	0
2	100,000	100,000	0
3	97,000	100,000	-3
4	96,500	100,000	-3.5
5	104,500	100,000	+4.5
6	97,000	100,000	-3
7	105,000	100,000	+5

Example of a jurisdiction with a population of 700,000 and 7 Districts

Total Percent Deviation = 8.5%

Traditional Redistricting Criteria

- Focus on traditional redistricting criteria:
 - Contiguity
 - Compactness
 - Natural Boundaries and Streets
 - Neighborhoods and Communities of Interest
- Legal Authorities – Charter § 802, Case law; see also California Constitution, Art. 21, § 2; California Elections Code § 21621

Traditional Redistricting Criteria

- Contiguity – all parts of district should connect
- Compactness – district should be geographically compact
 - Many ways to measure compactness
 - Be aware of appearance, shape and border lines
- Existing Boundaries – observe existing boundaries
 - Geographic, topographic boundaries
 - Street, Freeways
 - Other boundaries

Traditional Redistricting Criteria

- Neighborhoods and Communities of Interest – preserve communities sharing common interests
 - Neighborhoods
 - Examples of Common Interests
 - Income level
 - Educational background
 - Housing patterns (urban, rural, suburban, industrial)
 - Cultural and Language characteristics
 - Employment and Economic patterns (transportation, work)
 - Health and Environmental conditions
 - Crime, schools, other common issues
 - Obtain public testimony and consider census data, school and neighborhood information, planning information, etc.

Equal Protection Clause

- 14th Amendment's Equal Protection Clause prohibits the use of race as the predominant factor in redistricting except in narrow cases
 - race generally cannot be “predominant” factor
 - i.e., no racial gerrymandering
- Legal Authorities – U.S. Constitution; Supreme Court Case law re racial gerrymandering including *Shaw v. Reno*, *Miller v. Johnson*, *Bush v. Vera*, *Cromartie I & II*, *Alabama Legislative Black Caucus*, *Cooper v. Harris*, *Bethune-Hill*

Equal Protection Clause

- 14th Amendment's Equal Protection Clause does not, however, prohibit all consideration of race
- May consider race as a factor along with traditional race-neutral redistricting criteria
- Consideration of traditional criteria should not be subordinated to consideration of race and should be contemporaneous

Equal Protection Clause

- Evidence of race as predominant factor:
 - Direct testimony
 - Circumstantial evidence (demographics, shape, changes, process, record re use of traditional redistricting criteria)
- If race determined to be predominant factor, strict scrutiny applies to redistricting plan
 - Need compelling state interest
 - Plan must be narrowly tailored
 - High burden

Federal Voting Rights Act

- Section 2 of the Voting Rights Act of 1965
 - Prohibits any voting practice or procedure that “results in a denial or abridgement” of the right to vote based on race, color or language minority status
 - Applies to prohibit redistricting plans that result in “vote dilution” by depriving minority voters of an equal opportunity to elect a candidate of their choice
 - i.e., must not unlawfully minimize or cancel minority voting strength
 - Discriminatory effect sufficient, discriminatory intent not required

Federal Voting Rights Act

- Examples of “Vote Dilution”
 - Fracturing – dispersing minority voters into several different districts such that a bloc-voting majority can routinely outvote them
 - Packing – concentrating minority voters into a small number of districts and thereby minimizing their influence in other districts

Federal Voting Rights Act

- The Supreme Court has set three preconditions to Section 2 liability under the federal VRA (the “*Gingles*” criteria):
 1. The minority group must be sufficiently large and geographically compact to constitute a majority in a district
 2. The minority group must be politically cohesive; and
 3. The majority votes sufficiently as a bloc to enable it usually to defeat the minority’s preferred candidate

- Legal Authorities – Section 2 of Voting Rights Act; *Thornburg v. Gingles*

Federal Voting Rights Act

■ The *Gingles* Criteria

1. Is the minority group sufficiently large and compact to constitute a majority in a district?
 - Minority group must comprise at least 50% of district
 - No Section 2 liability re “influence” or “crossover” districts – where minority group is large enough to influence elections but less than a majority in a district (*Bartlett v. Strickland* (2009))
 - Section 2 liability may exist re “coalition” districts – where two or more minority groups can join to form a majority in a district
 - Minority group must be geographically compact

Federal Voting Rights Act

- The *Gingles* Criteria

2. Is the minority group politically cohesive?

- Evidence that minority group members usually vote for the same candidates or otherwise share common political preferences

3. Is there racial bloc voting?

- Evidence that majority voters vote sufficiently as a bloc usually to defeat the minority group's preferred candidate
- Look to evidence from past elections

- Proportionality between minority population and majority-minority districts also relevant

Federal Voting Rights Act

- If all three *Gingles* criteria are met, the courts next look to the “Totality of the Circumstances” to determine if there has been a Section 2 violation:
 - History of official discrimination
 - Racial polarization of voting
 - Use of unusually large election districts or other practices to enhance discrimination
 - Effects of discrimination endured by minority group in areas such as education, employment, health
 - Racial appeals in political campaigns
 - Minority group’s ability to be elected to public office
 - Responsiveness of elected officials to minority group’s needs

Conclusion

Key Principles to Keep in Mind:

- Strive for Population Equality
 - Make a Good faith effort to draw equipopulous districts
 - Justify any deviations with use of traditional redistricting criteria
- Focus on Traditional Redistricting Criteria
 - Draw contiguous and compact districts
 - Respect boundaries, neighborhoods, and communities of interest
 - Obtain public testimony, neighborhood/community information and make a good record
- Do not Use Race as the Predominant Factor
 - Focus on traditional race-neutral criteria
- Comply with the Voting Rights Act
 - Avoid fracturing or packing minority voters
 - Be aware of *Gingles* criteria
- Establish and Follow a Good Process