

BRENNAN
CENTER
FOR JUSTICE

at New York University School of Law

A MEDIA GUIDE
TO REDISTRICTING

ERIKA WOOD
MYRNA PÉREZ

ABOUT THE BRENNAN CENTER FOR JUSTICE

The Brennan Center for Justice at New York University School of Law is a non-partisan public policy and law institute that focuses on fundamental issues of democracy and justice. Our work ranges from voting rights to campaign finance reform, from racial justice in criminal law to presidential power in the fight against terrorism. A singular institution – part think tank, part public interest law firm, part advocacy group – the Brennan Center combines scholarship, legislative and legal advocacy, and communications to win meaningful, measurable change in the public sector.

ABOUT THE BRENNAN CENTER'S REDISTRICTING PROJECT

The Brennan Center is a leader in the fight for just and equitable redistricting procedures. We counsel advocates, legislators and community groups across the country on how best to maximize the goals of diversity, accountability, and fairness through redistricting reform. Building on our extensive nationwide study of redistricting practices and reform initiatives, we offer legislative testimony, help draft legislation and work to educate the public to shape and advance the reform agenda. We have also filed friend-of-the-court briefs in many of the major cases addressing the use of redistricting for undue partisan gain or at the expense of minority voters.

Our publications and public advocacy have amplified the values of redistricting reform: counting the population and redrawing the district lines in a way that is equitable, fair, and sensitive to diversity. In anticipation of the round of redistricting following the 2000 Census, the Brennan Center offered *The Real Y2K Problem*, an accessible analysis of the technical and legal issues facing legislators and reform advocates in redrawing the nation's legislative and Congressional districts. In 2010 we released an updated version of *A Citizen's Guide to Redistricting*, a comprehensive guide that provides engaged citizens with the knowledge and tools they need to get involved with this round of redistricting, and to work towards continuing reform in the decades to come. We have created a variety of public education materials and presentations, as well as numerous articles and opinion pieces detailing the promises and challenges of redistricting in the public interest.

These resources and more can be found at the Brennan Center's redistricting website: www.brennancenter.org/redistricting.

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INTRODUCTION

Before it even began, this redistricting cycle promised to be very different from any before. Large population shifts from the Midwest and Northeast to the South and Southwest, significant growth in the Latino population, sweeping mid-term Republican victories, a new citizen's redistricting commission in California, and technological advances that allow the public to play a more prominent role than ever before all mean this round of redistricting will create widespread curiosity and interest.

As is well known, redistricting often devolves into a naked bid for partisan advantage. At times of partisan stalemate, the two parties sometimes opt for safety, cutting deals in what NYU professor Samuel Issacharoff has labeled “political cartels.”¹ This year, sharp swings to Republican control in numerous statehouses mean that this redistricting cycle may have a significant partisan impact going forward.

As the media explores these new and noteworthy events, there is an underlying story that merits telling: that redistricting has real consequences for communities and how they are represented in our government. We encourage the media to cover not just the drama of political infighting and territorial battles, but also to discover the public interest story of how district lines can embrace or divide the communities that make up our country, and determine whether and how communities have a cohesive voice in our democracy.

The process for redrawing district lines is obscure, technical and varies from state to state. It is often done behind closed doors, far from the public eye. We assume that this is inevitably the exclusive realm of party bosses and savvy operatives – and that it always has been, and always will be that way. Perhaps. But few decisions made by elected officials have as lasting an impact on the way we are governed. Secretive and unfair redistricting can tilt the terrain on which decisions get made. We all have an obligation to try to crack open the doors of the process. There is a tremendous story to be told, and the media can play a vital role in telling it.

We hope this Guide gives the media information and tools to open the doors and bring public awareness and, where needed, scrutiny to a process that is frequently obscure and opaque. The Guide offers a comprehensive yet comprehensible discussion of redistricting issues, information on how redistricting is conducted in each state, and comparison charts of various redistricting methods. Throughout the Guide, we suggest things to look for as you cover the issue.

I. WHY REDISTRICTING MATTERS

Members of Congress and state legislators are elected from districts. At least once per decade, district lines are redrawn block-by-block. Why? People move, families grow. The U.S. Constitution requires districts to have roughly equal populations. Redistricting ensures that about the same number of people live in each district, and, as a result, that each person is equally represented in the government.

Changes in population and demographics that have developed over the course of a decade are, in the space of a year, suddenly reflected in the new political boundaries that are drawn – quite literally changing the map, and with it, potentially, the balance of power in the states and in Congress for decades to come.

After the 2010 census, many federal, state and local districts will be re-drawn in 2011 to reflect population shifts. Redistricting is not a simple division problem. District lines can be drawn to give communities more or less voting power. District lines can change who wins an election. They can keep a community together or split it apart, leaving it without a representative accountable for its concerns. The way the lines are drawn can change which party controls the legislature, and ultimately, which laws are passed.

II. TIMELINE

April 1, 2010 → Census Day

December 31, 2010 → Census delivers population counts to President

January 10, 2011 → President delivers apportionment count to U.S. Congress

February 2011 → Census Bureau starts sending redistricting data to the states

April 1, 2011 → Deadline for redistricting data to be delivered to the states

2011-2012 → States conduct redistricting. Each state has a different deadline, usually the end of the legislative session. Most states finish by 2012.

2011-2012 → State primary elections. Redistricting generally has to be complete before state primary filing deadlines.

III. WHO DRAWS DISTRICTS

Each state has its own rules, usually found in the state constitution, determining who will draw district lines for its members of Congress and its state legislators. In most states the power to draw district lines rests with the **state legislature**. This means that state legislators pass laws to create the boundaries for their own districts and for the state's representatives in Congress. These laws sometimes involve a few special procedures. Usually the governor can veto redistricting plans – subject to an override by the legislature – just like any other law.

The fact that legislatures are often the decisive actors in redistricting has sparked heated debate. Critics point out that no other country permits officeholders to draw the lines of the districts in which they run. They argue that redistricting is often a vehicle for advancing the interests of the party that controls the legislature, especially if the Governor is of the same party. After the 2010 midterm elections, there is single-party control in 32 states.² Redistricting is often seen as a tool to protect incumbents, regardless of party. Legislators can also use their knowledge of the district to diminish the voting power of various groups by drawing lines that split cohesive communities.

But supporters of the system argue that legislators are acutely aware of the composition of their districts. They know the location of specific communities (be they ethnic, racial, economic or other) in their districts, and will fight for them to have adequate representation. Moreover, because legislators are elected, they are, at least in theory, directly accountable to the voters. Redistricting is impossible without compromise. Therefore, some say, it is sensible to have legislators handle the job because compromise is a way of life.

In 22 states, entities other than the legislature, often called “commissions,” may take part in the redistricting process. These commissions vary substantially from state to state, but even here, in nearly all instances, legislators have a say at some point in how their districts will be drawn.

To see who draws districts in your state, see the state-by-state guide in Appendix A.

- Four states (Iowa, Maine, New York and Ohio) have **advisory commissions** to help draw lines for the state legislative districts.³ Generally, advisory commissions recommend district plans to the legislature, but the legislature has the final say. How these advisory commissions operate varies widely state to state.
- Five states (Connecticut, Illinois, Indiana, Mississippi, Oklahoma and Texas) use a **backup commission** for their state districts. These backup commissions will step in to draw plans, but only if the legislature cannot agree on a districting plan in a timely fashion.⁴

- Some states have commissions that do almost all of the work. Here too, the commissions look very different in different states. At least for state legislative districts, seven states (Arkansas, Colorado, Hawaii, Missouri, New Jersey, Ohio and Pennsylvania) use what we call **politician commissions**: either legislators or other elected officials can sit on the commission, but the legislature as a whole isn't involved. Just as with the other structures above, each state is slightly different.⁵
- Finally, six states (Alaska, Arizona, California, Idaho, Montana, and Washington) draw their districts using **independent commissions** of individuals who are not themselves legislators or other public officials.⁶ This means that for the most part, legislators may have a role in picking the commissioners, but will not be able to draw the district lines themselves. As with the other examples above, there are several different models of independent commissions.⁷

What to look for:

- Are the lines drawn by people with a direct personal interest in the outcome (i.e., people who plan to run in the resulting districts)?
- Whether a commission or legislative leaders, do the people who draw the lines reasonably reflect the state's diversity?
- Does the redistricting body have a reasonable partisan balance, or a voting rule to create compromise?
- Is the redistricting body accountable to anyone? Who? How?

IV. HOW DISTRICTS ARE DRAWN

There are two key issues to consider when examining how districts are drawn in a particular state: (1) the process used to determine how and where to draw the districts; and (2) the laws used to determine how and where to draw the districts.

THE PROCESS

In the past, redistricting has often reflected sophisticated back-room political calculations and negotiations by partisan insiders far from the public eye. Decisions are often made behind closed doors with little opportunity for anyone (including journalists) to ask questions about how the lines are being drawn, or for the public to have any say about how their communities are defined and represented. Secrecy often breeds distrust, and relieves the line-drawers from any accountability for the districts they draw.

This redistricting cycle, however, presents the possibility for more transparency, accountability and public engagement than ever by pairing greater public awareness with new technology and online resources. The dramatic new technology and increase in media outlets over the last decade create the potential for a more informed and engaged public in this round of redistricting. Internet and social networking sites create new tools for grassroots organizing, while Google Maps and other recently developed open source mapping software create new opportunities for communities and individuals to learn about districts and draw their own.⁸

Some states already conduct a more open process. The first step in transparency is furnishing the public with the same demographic and political data used to create districts. In 2002, at least 26 states disclosed this data. At least 18 states provided public access to computers or expensive redistricting software.⁹ Some states hold public hearings and may accept potential maps from the public. They may even publish proposed district lines and weigh community response before making the lines final.

Even in those states that do not have legal requirements, members of the media can demand a more open process.

Here are some ways journalists can open up the redistricting process:

- **Identify** who is responsible for drawing the districts;
- **Determine** which criteria the line-drawers will be utilizing to draw the districts;
- **Determine** whether state Freedom of Information laws, public meeting laws, or other tools are available to force disclosure;
- **Request** the relevant demographic and political data;

- **Demand** and attend public hearings and press briefings;
- **Request** access to deliberations and meetings;
- **Ask** to see draft plans and maps before they are final;
- **Ask** the line-drawers to explain their proposed plans and their process for creating them;
- **Document** any refusals to provide information or to allow the media or the public to engage in the process.

What to look for:

- Do the decision-makers meet in public to work through their redistricting decisions?
- Is there any limit on private conversations about plans, particularly with incumbents?
- Does the redistricting body explain its rationale for drawing districts?
- Is the census and political data used to draw district lines publicly available?
- Are public hearings held to solicit opinions about community boundaries before districts are drawn? Is this information used to draft maps?
- Are draft maps made public?
- Are public hearings held to invite comments on proposed districts?
- Can the public submit full or partial redistricting plans?

THE LAW

One of the difficulties of redistricting is that the lines must comply with state and federal law. These laws are complex and have their own vocabulary. And because there is overlapping impact, an attempt to fulfill one requirement may knock a district out of compliance with another.

EQUAL POPULATION

The “one person, one vote” cases of the 1960s established that each person’s vote should be equal.¹⁰ Therefore, local, state, and federal representative districts within a state should have approximately the same number of people. But “equal population” under the U.S. Constitution means different things for different districts.

Congressional districts within a state must have basically the same number of people.¹¹ Under the U.S. Constitution, state and local districts can have a total population variance of about 10 percent between the largest and smallest districts, as long as there is a good reason (usually one of the state-law criteria discussed below) for the disparity.¹²

Some states set stricter limits on population deviation, in their own constitution or by statute: Colorado, for example, limits the difference between the largest and smallest district to five percent; in Iowa, the average deviation from the average district population must be less than one percent.¹³ Stricter limits

on population differences place more constraints on the line drawers, which has its pros and cons. For example, stricter limits will create a more equal number of people in each district, which means that each person will have a more equal level of representation. However, the reduced flexibility in the size of the district may make it difficult for line drawers to achieve other goals, such as keeping a county, town, or neighborhood intact.

VOTING RIGHTS ACT

The extent to which redistricting can account for race and ethnicity is a delicate legal balance: while states must account for race in some ways, they cannot do so “too much.” The Supreme Court has interpreted the U.S. Constitution to require a compelling reason before a state can make the race or ethnicity of citizens the “predominant” reason for drawing particular district lines.¹⁴ And the Court has also repeatedly implied that one such compelling reason is compliance with the federal Voting Rights Act (VRA).

Congress enacted the Voting Rights Act primarily to combat discrimination and intimidation used to deny African Americans and other minorities the right to an effective vote. Its impact has been considerable. Including local offices, today there are more than 9,000 African-American elected officials, about 5,000 Latino public officials, and far more Asian Pacific American and Native American officials than ever before.¹⁵

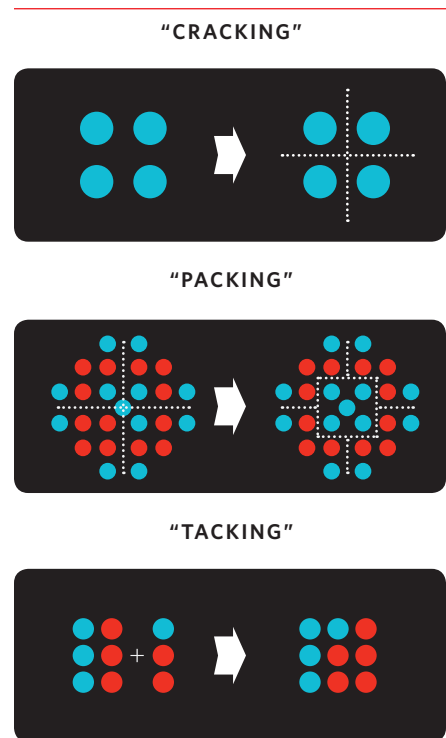
In the past, some states have used redistricting to dilute the vote of minority communities. In some cases, states splintered a single community among many majority-white districts to eliminate minority voting power; in other cases, with larger minority populations, they would pack as many minority voters as possible into one district, to minimize the number of seats that minorities could influence. At times, these tactics have also been used by partisans to boost their chances in certain electoral districts.

The basic techniques used to dilute the voting strength of minority populations are **cracking**, **packing** and **tacking**.

Cracking is the act of dividing communities of like-minded voters into more than one district. With their voting strength diluted, communities are more likely to lose elections.

Packing is the opposite of cracking. The goal is to cram as many like-minded voters into as few districts as possible. While the group is likely to win in the districts into which they are packed, their voting strength is diminished elsewhere.

Tacking is the process of reaching out from the bulk of a district to grab a distant area populated by voters with desired characteristics.



Los Angeles provides one real-world example of these techniques. In 1992, social unrest in the city took a heavy toll on many neighborhoods, including a one-square-mile area known as Koreatown. When Koreatown residents requested help with recovery efforts from their elected officials, each representative claimed that the area was part of another official’s district. Indeed, the district map fractured Koreatown into four City Council districts and five state Assembly districts, which made it easy for each representative to deflect responsibility for the community.

Often the Voting Rights Act can prevent these occurrences. Two provisions of the VRA are relevant to the redistricting process: Section 2 and Section 5.

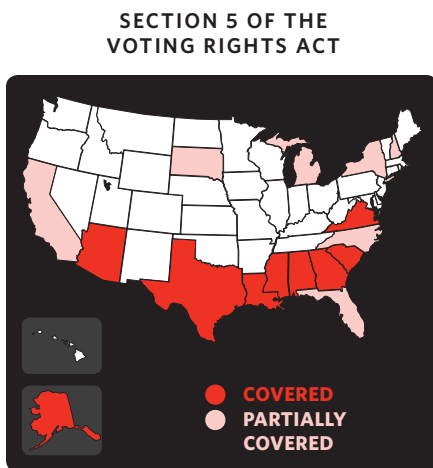
Section 2 applies across the country. It prohibits any voting practice or procedure that results in the “denial or abridgement” of anyone’s right to vote based on race, color, or minority language status.¹⁶ In 1982, Congress amended Section 2 to clarify that it prohibited laws or practices that denied minority voters an equal opportunity “to participate in the political process and to elect representatives of their choice.”¹⁷ A violation of this type is sometimes called “**vote dilution.**”

Essentially, district lines cannot dilute a minority’s voting power if:

- A minority community can fit reasonably in a **geographically compact** district;
- Voting-age minorities would represent a **majority of the voters** in that district;
- The minority population would usually **vote for the same candidate**;
- The white population would usually **vote for a different candidate**; and
- The minority vote is not otherwise protected given the “**totality of the circumstances.**”¹⁸

Section 5 of the VRA works a bit differently. It impacts specific states and localities – “covered jurisdictions” (see map to the left) – that historically erected barriers to the franchise for African Americans and other racial and language minorities. In those covered jurisdictions (all of nine states, and parts of seven others), all district line changes must be approved by the Department of Justice or a federal court in a process called “pre-clearance.” A new district plan will be pre-cleared if:

- The new plan is not intended to dilute minority votes; and
- The new plan leaves minority voters no worse off overall than they would be if the old lines were applied to the community, given its present demographics.



RACE AND REDISTRICTING BEYOND THE VOTING RIGHTS ACT

Other than drawing districts in order to comply with Section 2 or Section 5 of the VRA, the courts have not clarified exactly the extent to which a state may take the race or ethnicity of voters into account when drawing district lines. If race or ethnicity is the “predominant” reason for the shape of a district – something the courts generally assess by examining a number of factors on the ground – then its use must be precisely tailored to meet a goal that the courts will find “compelling.”¹⁹

There have been relatively few attempts to test the scope of this standard in the redistricting context. If, in drawing the lines, race and ethnicity are simply thrown in the mix with other factors – particularly the state criteria described below – courts may be more forgiving.

ADDITIONAL STATE CRITERIA

In addition to compliance with the U.S. Constitution and the Voting Rights Act, state constitutions and laws often impose additional criteria on how districts should be drawn. The most common include:

- **Contiguity.** Most states require districts to be “contiguous,” with all parts of the district physically adjacent to each other. In some cases, water — rivers, lakes, bays — give mapmakers wiggle room, as a sort of bridge to “adjacent” land that may be quite far away.
- **Communities of interest.** Many states require line drawers to preserve “communities of interest.” Communities of interest are groups who likely have similar legislative concerns, and therefore would benefit from cohesive representation. These interests might include social, geographic, cultural, ethnic, racial, economic, religious, and/or political. Twenty-four states address the subject directly, asking redistricting bodies to consider various types of communities in drawing district lines.²⁰ Several redistricting criteria — such as following county or municipal lines or drawing districts that are compact — are often proxies for finding communities of common interest. Kansas’ definition is typical: in keeping voters together, map drawers are asked to consider “[s]ocial, cultural, racial, ethnic, and economic interests common to the population of the area, which are probable subjects of legislation.”²¹
- **Political and geographic boundaries.** Most states consider “political boundaries” — county, city, town, or ward lines — in drawing districts. Some demand that particular units be kept together whenever possible, or if one must be split to equalize population or to comply with the Voting Rights Act, that it be split into as few pieces as possible. Others states simply request that these boundaries be followed when it is practicable to do so.
- **Compactness.** Most states also require districts to be reasonably “compact,” though few define the term. A district where constituents generally live near each other or with a regular geometric shape is usually more compact than one with long, extended tendrils. In practice, compactness tends to be in the eye of the beholder: people say they know it when they see it. Academics have proposed more than 30 numerical measures of compactness, focusing on: 1) how contorted the district’s boundaries are; 2) how spread out a district is from a central core; or 3) the location of the “center of gravity” of the district’s population.²² A district that is compact by one measure may be less compact by another.

- **Nesting.** Nesting is the practice of drawing districts so that districts for the upper legislative chamber contain two or more intact districts for the lower legislative chamber. For example, if each Senate district is composed exclusively of two Assembly districts, the Assembly districts are said to be “nested” within the Senate districts. Nesting certainly makes redistricting maps look cleaner, though the clean appearance alone is of questionable value. More tangibly, it reduces administrative burdens somewhat by reducing the number of different ballots that need to be prepared. And, by tying the maps for one legislative chamber to the maps for the other legislative chamber, nesting constrains the discretion of those drawing the lines.
- **Political outcomes.** Incumbents may try to draw districts so they contain as many reliable partisan supporters as possible. A few states try to rein in this practice, either by prohibiting partisan favoritism or by affirmatively encouraging competition. In the last redistricting cycle, nine states (California, Delaware, Hawaii, Iowa, Indiana, Montana, Nebraska, Oregon, and Washington) prohibited drawing state legislative districts that unduly favor a candidate or political party.²³ Two states (Arizona and Washington), both with independent commissions, affirmatively encouraged their commissions to draw competitive districts provided the practice did not interfere with other redistricting goals.²⁴

It is important to remember that the criteria, and how they are applied, are in and of themselves policy and value judgments with real-world implications. It is not possible to maximize every desired criterion for every district. Redistricting requires trade-offs among different criteria that may in some instances be directly at odds. The decisions as to how those trade-offs should get made, and what the optimal balance of criteria is, will affect the shape of the district and who is placed where. Moreover, some political science research has shown that application of some of these criteria will produce predictable results, calling into question whether any redistricting criteria can fairly be considered “neutral.”²⁵

For example, if voters favoring one party tend to cluster in particular cities or counties, districting criteria requiring adherence to political boundaries or imposing certain measures of compactness may result in the packing, and consequently dilution, of those voters which will decrease political competition. In another example, research has shown that districting criteria requiring nesting, at least in California, could both increase the division of city and county lines, and impede the creation of some minority opportunity districts.²⁶

A NOTE ON SHAPE: DON'T JUDGE A BOOK BY ITS COVER ALONE

People commonly associate gerrymandering with odd-shaped districts, and the media often use the district's shape to tell a story. But it is important for journalists to look beyond the misleading “symptoms” of gerrymandering and to examine the goals of representation and whether those goals being met by the redistricting process and the districts that result.

Sometimes there are good reasons for a district to have an odd shape. Communities, geography and municipal boundaries do not always fall into neat shapes. Slicing the country in a neat grid would inevitably split communities and group voters in ways that benefit one political party over another. Moreover, the Voting Rights Act may yield districts that may seem “strange” to the eye, but fulfill our national commitment to give coherent minority communities the chance for a voice in legislative delegations.

What to look for:

- Do the districts comply with equal population standards?
- For Section 5 jurisdictions, do the districts appear to satisfy all of the pre-clearance requirements? What aspects of the districts are likely to generate concern?
- Is there clarity about which criteria are most important? What are they?
- Are communities or neighborhoods cut apart or kept together? If a community was split or sliced up, is there a sensible reason? What do community leaders have to say?

DON'T JUDGE A BOOK BY ITS COVER ALONE

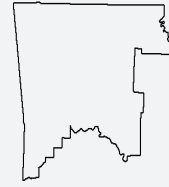
HERE ARE SOME EXAMPLES OF WHY SHAPE ALONE DOESN'T TELL YOU MUCH ABOUT THE DISTRICT.



AZ-2
A bipartisan commission drew this district to give more meaningful representation to racial minorities.



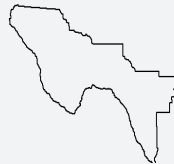
SC-1
A court drew this district, its border is coastline and a shipping corridor.



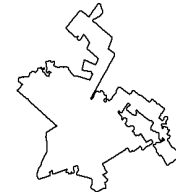
AR-3
The legislature drew this district, which mostly follows county lines. While this district may be visually appealing, it does not comply with the equal population rules.



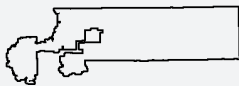
VA-2
This district was drawn by the legislature and mostly follows county lines. It shares coastline and a shipping corridor as a border.



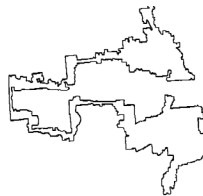
TX-23
This district was drawn by the legislature and mostly follows county lines, but a court found that it violated the Voting Rights Act.



PA-6
The legislature drew this district and it is among the most competitive districts in the country.



CO-7
A court drew this district and it mostly follows county lines. It is among most competitive districts in the country.



IL-4
The legislature drew this district to give two substantial minority populations the opportunity to elect their representative of choice. It resulted in the first Latino member of Congress to be elected from the Midwest.



NJ-7
A bipartisan commission drew this district.



WA-2
A bipartisan commission drew this district. Its border shares coastline and shipping corridors.



WV-2
The legislature drew this district and it mostly follows county lines.



GA-5
The legislature drew this district to give meaningful representation to racial minorities.

V. COMMON MISCONCEPTIONS

Redistricting involves a number of complicated and often competing objectives. There is no one solution that will address every concern. Below, we offer some things to keep in mind when considering some common reform proposals.

- Some have suggested Iowa as a model for how redistricting should work. In Iowa, the nonpartisan legislative services bureau proposes lines for the legislature to ratify; if the legislature rejects the first offer, the bureau will try again, and if the legislature rejects the second offer, it can draw the lines as it wishes.²⁷ This process might work well in Iowa, but it is unclear that it would work well elsewhere.

First, Iowa's legislature exercises a level of restraint that may not be typical of other legislatures. The process above is set by statute, meaning the legislators could simply repeal it if they wished, but have not chosen to do so. Additionally, though legislators are entitled to override the proposals they are given, they have not yet opted to do so. It is unclear whether other state legislatures will be this deferential. Second, Iowa may not face comparable challenges in achieving fair representation given Iowa's demographics, partisan composition, and population distribution.

- Some have suggested that if redistricting bodies completely ignore partisan data like voting or registration patterns, the districts would be more fair and neutral. Even assuming that redistricting bodies could completely put aside not only specific partisan data but also rough partisan trends like race or regional affiliation, ignoring the data would not necessarily create politically neutral districts. Every redistricting decision has a partisan consequence, and studies have shown that in the right conditions, some basic criteria skew reliably in favor of one political party, even without any partisan intent. Moreover, in some instances, partisan data is necessary to achieve other objectives like promoting competition, respecting the voting rights of a cohesive racial or language minority, or identifying the boundaries of a community of interest.
- Similarly, some have suggested that computers be programmed to draw districts in order to remove bias. The rules feeding the computer program will have partisan consequences, however, and could well have a partisan bias. Moreover, rigid rules that let computers draw district lines are likely to have unintended consequences on the ground, when they run into difficult-to-quantify local circumstances like legitimate communities that don't fit neatly within political boundaries or geometric shapes. Finally (though it sounds difficult to believe), studies have shown that in a state of any size, current computing technology isn't powerful enough to draw lines that best meet more than a few very elementary criteria.

- Finally, some suggest lines should be drawn by a nonpartisan body. However, a body of independent decision-makers does not necessarily need to be nonpartisan. The primary function of independence is to remove the incentive for narrow self-interest: drawing a district to punish a recalcitrant colleague, or exclude a promising challenger, or include family, friends, or fundraisers. An individual who is not beholden to particular legislators can avoid this narrow destructive incentive without giving up his or her normal partisan preferences.

VI. REDISTRICTING REPORTING: WHAT TO LOOK FOR IN 2011

The upcoming redistricting cycle, like all the ones before, will likely feature high drama, fierce battles and sophisticated negotiations. We know the media will cover those stories. But here are a few interesting issues that we think are worth watching in 2011.

RECENT GAME CHANGING REFORMS

CALIFORNIA – A NEW CITIZEN’S COMMISSION

California’s voters recently approved a new “citizens” commission to draw both its state and Congressional districts for the first time in 2011. The state put in place a lengthy application and selection process to appoint the commissioners.

The Commission is multi-partisan, with not only balanced numbers of Democrats and Republicans, but also a few commissioners who are registered with third parties or with no party at all. To create the Commission, state auditors chose 20 Democrats, 20 Republicans, and 20 who are neither from an applicant pool, and the four legislative leaders each cut two people from each category. Eight commissioners (three Democrats, three Republicans, two neither) are chosen randomly from the remaining nominees; those eight then choose six colleagues (two Democrats, two Republicans, two neither) from the larger pool. The new law also requires that, to the extent possible, both its nominee pool and its final Commission reflect the racial, ethnic, geographic, and gender diversity of the state.²⁸

The new law also builds a high wall between legislators and those who draw the lines: in the decade before the Commission is created, neither commissioners nor their immediate family can have been a candidate for federal or state office or member of a party central committee; an officer, employee, or paid consultant to a federal or state candidate or party; a registered lobbyist or paid legislative staff; or a donor of more than \$2,000 to a candidate’s campaign.²⁹

The new law requires that the Commission’s decisions be made entirely in the public eye. Aside from conversations with their own staff or a few fellow commissioners, redistricting conversations are not permitted behind closed doors. All comments and all data must be “on the record,” for immediate and widespread public distribution.³⁰ Commissioners must also publicly justify the lines that they draw by producing a report at the end of the process, explaining why the districts were drawn as they were. That report will not only inform the public, but might also serve as contemporaneous evidence of the intent of the redistricting body in the event of a court challenge.³¹

Finally, a district map can only pass if it gets nine votes: three Democrats, three Republicans, and three from neither political party.³²

This concern may be heightened in California. In the last redistricting in California, Democratic members of Congress paid a redistricting consultant (who was also the brother of an incumbent Congressman) more than \$1.3 million to create a redistricting plan. The consultant was also paid \$20,000 by each of 30 of California's 32 Democratic members of Congress to custom design their individual districts for safety.

Commissions often retain experts – lawyers, political scientists, and computer scientists – to advise them on the difficult legal and technical aspects of drawing districts. Some believe these experts, who were not subject to the rigorous commission selection process, end up playing a predominant role in drawing the map.

In a state as racially, ethnically and geographically diverse as California (not to mention its importance to the national electoral map), it will be interesting to see both how the public engages with the new commission and what maps the new commission produces. Will the commission's map afford communities fairer representation? Or will the responsibility for an unfair map merely shift to commissioners and their advisers who are not accountable to voters through elections?

What to look for:

- Did the public engage?
- What issues were the most contentious or difficult?
- Did the Commission pass a map?
- Were sizeable communities of interest split by the Commission map?
- Does the map proportionately reflect the state's partisan makeup?
- Did the Commission retain any experts? If so, who are they and what are their roles in the process?
- Were there any legal challenges to the Commission map?

FLORIDA – NEW GUIDELINES FOR LEGISLATORS

In November 2010, Florida voters approved two state constitutional amendments designed to impose some requirements on legislators drawing both state and Congressional districts. The new law in Florida prohibits drawing districts that (1) favor or disfavor an incumbent or political party; and (2) deny racial and language minorities the equal opportunity to participate in the political process or elect representatives of their choice.³³ The new law also requires districts to be contiguous, compact when it does not produce a conflict with certain other priorities, and to follow political boundaries where feasible.³⁴

The amendment pertaining to Congressional redistricting has been challenged in federal court.³⁵ Plaintiffs in that case, two members of Congress, claim that the law is unconstitutional. At the time of this writing, the case is in its preliminary stages.

Like California, Florida is a large and widely diverse state, and one that is critically important to the national electoral map. It is also a state that has seen a lot of partisan gerrymanders in the past. It remains to be seen whether these specific prohibitions and criteria operate to make the redistricting process less rancorous, self-serving, or partisan.

What to look for:

- Was there any change in the number of minorities elected to the legislature attributable to the new amendments?
- Does the map favor one political party disproportionate to its level of statewide support?
- Were any incumbents paired against each other? If so, did it happen equally to all political parties?
- Was there greater court involvement this round than in previous rounds?

NEW YORK, MARYLAND, AND DELAWARE – ELIMINATING PRISON-BASED GERRYMANDERING

Currently the U.S. Census counts people in prison as residents of the districts where they are incarcerated, even though in 48 states people in prison do not have the right to vote. This policy artificially inflates the political power of residents in prison districts, and artificially deflates the power of residents everywhere else, particularly the home communities to which most people in prison return.³⁶

This year, for the first time, the Census Bureau is releasing a special data file that will help states and localities remove the people in prison from the prison districts.³⁷ States will also have greater flexibility to reallocate incarcerated persons to their home communities. Delaware, Maryland and New York recently passed legislation to do just this.

It will be interesting to see how New York, Maryland and Delaware handle the technical data issues involved with the new laws and whether and how the reforms affect the district lines. There continues to be ongoing advocacy to try to change the Census policy for 2020 to count incarcerated individuals in their home communities rather than where they are in prison.

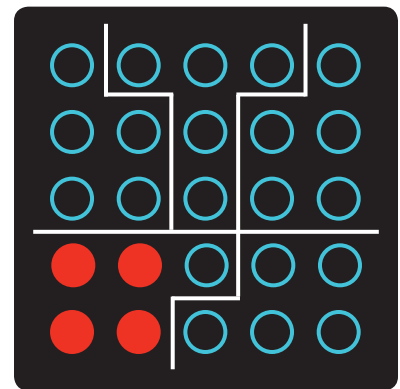
What to look for:

- Did these reforms cause significant changes in the district boundaries?
- Did the changes have any unforeseen consequences?
- Has there been increased civic involvement in the home community?

DEFENDING THE VOTING RIGHTS ACT

The Voting Rights Act has provided an opportunity to increase minority representation and participation at all levels of government – from casting a ballot, to running for office, to representing constituents. There have been efforts to scale back its scope, lessen its impact, and in some cases, eliminate certain components of it altogether. The Brennan Center, along with other legal and advocacy groups, is carefully watching legal challenges to the Voting Rights Act. We expect that this redistricting cycle will provide incentives for similar challenges to be filed.

PRISON-BASED GERRYMANDERING



In most states, people in prison cannot vote yet most states allocate them to their prison district rather than their home communities during redistricting. This practice inflates the voting power of eligible voters in the prison district, while diluting the votes in the rest of the districts in the state.

As discussed above, the redistricting process can be used to deprive minority voters of the equal opportunity to participate in the political process and elect candidates of choice. There are constitutional and statutory protections that limit these attempts, but those laws may be in flux due to court challenges. Other than requiring states to draw districts to comply with Section 2 or Section 5 of the Voting Rights Act, courts have not clarified exactly when and how a state may take the race or ethnicity of voters into account when drawing district lines. Legal challenges and the resulting judicial opinions could offer some clarity, but they could also muddy the waters even further, as the full effect of one case or legal opinion is not always immediately known. And, of course, the perceived value of a bright line rule depends entirely on whether one agrees with where the lines were drawn.

The Brennan Center is carefully monitoring *Shelby County v. Holder*, a case arising out of Alabama, and *Laroque v. Holder*, arising out of North Carolina. These two cases challenge Congress's authority to enact the preclearance requirements of Section 5 of the Voting Rights Act, and may implicate other issues, like whether private citizens have standing to challenge the constitutionality of Section 5.

What to look for:

- Who are the parties in the lawsuit and what interests are at stake?
- What is the lawsuit trying to achieve?
- Who wins and loses?

POLITICAL GERRYMANDERING

Many state redistricting processes provide the opportunity for legislators to create districts where it will likely be easier for one political party to win elections, or for the current incumbent to win re-election. That is, legislators can choose their voters rather than voters choosing their legislators. Sometimes, these political gerrymanders are bipartisan in nature, meaning that there is an implicit (or even explicit) agreement between the parties as to who will control which districts. Sometimes legislators have the power (whether through numbers, seniority, political clout, manipulation of procedural rules, etc.) to group voters together in districts to increase the chance that candidates from a preferred party are elected.

Sometimes redistricting results in a burst of newly competitive districts, as suddenly vulnerable incumbents find themselves in unfamiliar, perhaps hostile territory. But other times partisan accommodation leads to a sharp drop in competitiveness. In 2002, after the last redistricting, eighty-one Congressional incumbents faced no major party opponent.³⁸ That year, in California, not a single Congressional incumbent lost.³⁹ These outcomes are not easily predictable from reading rulebooks or maps – this requires savvy journalists probing the motivations and expectations of political insiders.

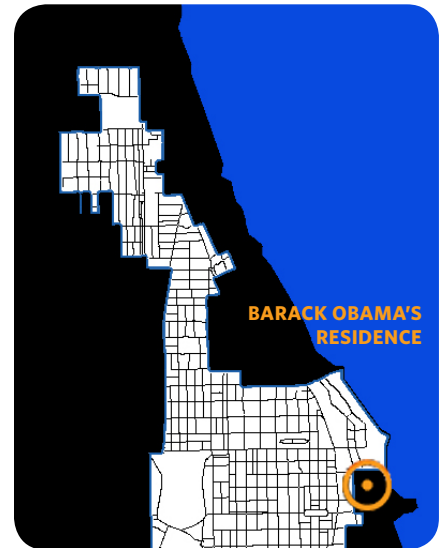
For example, in 1991, Texas Democrats crammed loyal Texas Republican voters into a district that spanned hundreds of miles, taking small slivers of land from five counties. By packing pockets of Republican voters into certain districts, Democrats gave themselves a better chance in the districts next door. In 1992, Republicans and Democrats each won about 49% of Texas' statewide vote, but under the Democratic redistricting plan, Democrats won 70% of the state's Congressional races.

In a series of cases over the past two decades, the U.S. Supreme Court has declined to overturn redistricting schemes even when they are clearly designed to boost one party over another. For example, in 2001, after the decennial census, Texas again drew new lines. In 2002, party control in the Texas legislature shifted. In 2003, in a mid decade move orchestrated by then House Majority Leader Tom Delay, the new legislature redrew Congressional district lines. (The use of illegal corporate funds to support this drive led to Delay's recent corruption conviction and prison sentence.) Following the 2004 elections, the new district lines, together with a party defection by a long-time Democrat, shifted party control of the Texas Congressional delegation with a total of six new Republican seats eliminating the Democratic Congressional majority from the 2002 elections.⁴⁰ In *LULAC v. Perry*, challenging both the new district lines and the act of partisan mid decade redistricting, the Court struck down one district, finding the 2003 redistricting plan violated the Voting Rights Act due to illegal abridgement of Latino votes.⁴¹ The Court, however, refused to find any violation of the Equal Protection Clause of the 14th Amendment based upon the practice of mid-decade politically-motivated redistricting.⁴²

Drawing district lines can also be a way for individual legislators to protect themselves from new challengers. For example, in the 2000 Democratic primary for an Illinois Congressional seat, then State Senator Barack Obama won more than 30% of the vote against incumbent Congressman Bobby Rush. Although Obama lost, his strong showing after a relatively hasty campaign set the stage for a real duel in a potential rematch. In the meantime, however, Illinois redrew its Congressional districts, in a process controlled by sitting legislators and highly deferential to incumbents, including Congressman Rush. The redistricting process carved Obama neatly out of the district, with the new lines running one block to the north, two blocks to the west, and one block to the south of Obama's residence. With Obama out of the picture, no candidate ran against Rush in the primary in either 2002 or 2004.⁴³

While the Supreme Court has said that a political gerrymander could be unlawful in theory, so far it has never found one that is. It will be interesting to watch how legislators use this redistricting cycle to benefit themselves by using the redistricting process to eliminate challengers, or their political parties, and how many of those deals will be bipartisan in nature.

ILLINOIS CONGRESSIONAL 1, 2002



What to look for:

- Was the redistricting process transparent and open?
- Did increased public scrutiny impact the potential for political gerrymandering?
- Were any potential challengers drawn out of a district?
- Does the final map favor one political party disproportionate to its level of statewide support?
- Was one party given access to resources that another party was not?
- Were any seats made “safer” for incumbents?

CONCLUSION

Clearly there will be a lot to cover as redistricting unfolds in 2011. We hope that journalists will pause among the finger pointing and back scratching to remember what should be the focus of the line drawers: communities, and assuring that their voices are fairly represented in our government.

We hope this Guide offers some guidance and clarity. We have additional materials on our website, www.brennancenter.org/redistricting. And please do not hesitate to contact the Brennan Center if you have additional questions.

APPENDIX A: STATE-BY-STATE GUIDE

ALABAMA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county boundaries when practicable (for Senate) Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
ALASKA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>Independent Commission</p> <ul style="list-style-type: none"> 5 members: legislative majority and minority leaders each select 1; Governor selects 2; Chief Justice selects 1 1 commissioner must be from each of the 4 judicial districts Commissioners cannot be public employees or officials Party affiliation cannot be considered 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Independent Commission draws the lines Governor cannot veto the plan State Supreme Court will review the plan if a citizen asks
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Alaska has only 1 Congressional district	
ARIZONA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>Independent Commission</p> <ul style="list-style-type: none"> 5 members: commission on appellate court appointments nominates 25 people (10 from each major party, 5 from neither major party); legislative majority and minority leaders each select 1 commissioner; those 4 commissioners select 1 tiebreaker not registered with the party of any of the 4 commissioners No more than 2 commissioners may be from the same party No more than 2 of the first 4 commissioners may be from the same county Commissioners must not have held public office within 3 years prior to appointment Commissioners must not have switched party within 3 years prior to appointment 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Independent Commission draws the lines Governor cannot veto the plan
Criteria	<ul style="list-style-type: none"> Compactness (area of circle with same perimeter) Contiguity Follow political boundaries when practicable Preserve communities of interest when practicable Nest Senate and House districts Encourage competition

APPENDIX A: STATE-BY-STATE GUIDE

CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
ARKANSAS	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>Politician Commission</p> <ul style="list-style-type: none"> 3 members: Governor, Secretary of State, Attorney General 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Politician Commission draws the lines Governor cannot veto the plan State Supreme Court will review the plan if a citizen asks
Criteria	<ul style="list-style-type: none"> Contiguity Follow county boundaries when practicable (for Senate)
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> None
CALIFORNIA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>Independent Commission</p> <ul style="list-style-type: none"> 14 members: 5 from each major party and 4 from neither major party, chosen by state auditor panel with input from legislative majority and minority leaders Commissioners must not have switched parties within 5 years prior to appointment Commission must be geographically, racially and ethnically diverse Commissioners must have voted in 2 of the 3 state elections prior to appointment Commissioners must not have been officials or candidates of a political party, employees or consultants of a political campaign, or donors of more than \$2,000 to a political campaign within 10 years prior to appointment Commissioners must not be staff, consultants or contractors for state or federal government 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Independent Commission draws the lines Governor cannot veto the plan State Supreme Court will review the plan if a registered voter asks
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow political boundaries when practicable Preserve communities of interest when practicable No undue favoritism towards a person or party Nest Senate and House districts if possible
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
Same as for state legislative districts	

APPENDIX A: STATE-BY-STATE GUIDE

COLORADO	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
Politician Commission <ul style="list-style-type: none"> ▪ 11 members: legislative majority and minority leaders each select 1, Governor selects 3, Chief Justice selects 4 ▪ No more than 6 commissioners may be from the same party ▪ No more than 4 commissioners may be members of the state assembly ▪ At least 1 but no more than 4 commissioners must be from each Congressional district 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ Politician Commission draws the lines ▪ Governor cannot veto the plan ▪ State Supreme Court automatically reviews the plan
Criteria	<ul style="list-style-type: none"> ▪ Populations of smallest and largest districts must deviate by no more than 5% ▪ Compactness (total perimeter) ▪ Contiguity ▪ Follow political boundaries when practicable ▪ Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	None
CONNECTICUT	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature or Backup Commission <ul style="list-style-type: none"> ▪ 9 commissioners: legislative majority and minority leaders each select 2; those 8 commissioners select 1 tiebreaker ▪ Commissioners must be electors of the state or State Supreme Court	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State legislature attempts to adopt redistricting plan by 2/3 majority of each house, not subject to veto by Governor ▪ If no plan is adopted by September 15, Backup Commission attempts to adopt plan by approval of at least 5 commissioners, not subject to veto by Governor ▪ If no plan is adopted by November 30, state Supreme Court draws the lines, not subject to veto by Governor
Criteria	<ul style="list-style-type: none"> ▪ Contiguity ▪ Follow town boundaries when practicable (for House)
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
Same as for state legislative districts	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ Same as for state legislative districts
Criteria	None

APPENDIX A: STATE-BY-STATE GUIDE

DELAWARE	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Contiguity ▪ No undue favoritism towards person or party
CONGRESSIONAL DISTRICTS	
Delaware has only 1 Congressional district	
FLORIDA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor cannot veto the plan ▪ State Supreme Court automatically reviews the plan
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity ▪ Follow political boundaries when practicable ▪ No undue favoritism towards incumbent or party
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	Same as for state legislative districts
GEORGIA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Contiguity ▪ Follow local voting district boundaries when practicable
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	

APPENDIX A: STATE-BY-STATE GUIDE

HAWAII	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>Politician Commission</p> <ul style="list-style-type: none"> 9 members: legislative majority and minority leaders each select 2; 6 of those 8 commissioners must agree on 1 tiebreaker 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Politician Commission draws the lines Governor cannot veto the plan State Supreme Court will review the plan if a registered voter asks
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow census tract boundaries when practicable Preserve communities of interest when practicable No undue favoritism towards person or party Nest Senate and House districts if possible
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
IDAHO	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>Independent Commission</p> <ul style="list-style-type: none"> 6 members: legislative majority and minority leaders each select 1; state chairs of major parties each select 1 Commissioners must be registered voters in the state Commissioners must not have been lobbyists within 1 year prior to appointment Commissioners must not have been state officials or candidates within 2 years prior to appointment 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Independent Commission draws the lines Governor cannot veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county and precinct boundaries when practicable Preserve communities of interest when practicable No undue favoritism towards incumbent or party Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
Same as for state legislative districts	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Same as for state legislative districts
Criteria	<ul style="list-style-type: none"> Compactness Follow county and precinct boundaries when practicable Preserve communities of interest when practicable No undue favoritism towards incumbent or party Nest Senate and House districts

APPENDIX A: STATE-BY-STATE GUIDE

ILLINOIS	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature or Backup Commission <ul style="list-style-type: none"> ▪ 8 members (9 in case of tie): legislative majority and minority leaders each select 1 legislator and 1 non-legislator; tiebreaker chosen if necessary by random draw from 2 names (1 from each major party) submitted by Supreme Court ▪ No more than 4 commissioners (5 in case of tie) may be from the same party 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature attempts to adopt redistricting plan, subject to veto by Governor ▪ If no plan is adopted by June 30, 8-member Backup Commission attempts to adopt plan by approval of at least 5 commissioners, not subject to veto by Governor ▪ If no plan is adopted by August 10, tiebreaking commissioner is selected, and Backup Commission draws the lines, not subject to veto by Governor
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity ▪ Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	None
INDIANA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Contiguity
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature or Backup Commission <ul style="list-style-type: none"> ▪ 5 members: Speaker of the House, President Pro Tem of the Senate, chairmen of the House and Senate committees responsible for legislative apportionment, state legislator to be appointed by Governor 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature attempts to adopt redistricting plan, subject to veto by Governor ▪ If no plan is adopted by the end of the state legislative session (which must be no later than April 29), Backup Commission draws the lines, not subject to veto by Governor
Criteria	None

APPENDIX A: STATE-BY-STATE GUIDE

IOWA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
Advisory Commission (non-partisan Legislative Service Bureau)	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Advisory Commission draws the lines State Legislature approves the plan Governor can veto the plan State Supreme Court will review the plan if a qualified elector asks
Criteria	<ul style="list-style-type: none"> Population of districts may deviate by no more than 1% on average and in no case by more than 5% Compactness (length-width, total perimeter) Contiguity Follow political boundaries when practicable No undue favoritism towards person or party Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
KANSAS	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan State Supreme Court automatically reviews the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county boundaries when practicable Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	Same as for state legislative districts
KENTUCKY	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	

APPENDIX A: STATE-BY-STATE GUIDE

How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Follow county boundaries when practicable Contiguity
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	Same as for state legislative districts
Criteria	<ul style="list-style-type: none"> Contiguity
LOUISIANA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the line Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Follow political boundaries when practicable Contiguity
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
MAINE	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
Advisory Commission <ul style="list-style-type: none"> 15 members: Senate majority and minority leaders each select 2; House majority and minority leaders each select 3; state chairs of the major parties each select 1; the groups of 6 commissioners from each major party each select 1 commissioner from the public; those 2 “public commissioners” select 1 tiebreaker 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Advisory Commission draws the lines State Legislature approves the plan Governor can veto the plan State Supreme Court will review the plan if a citizen asks
Criteria	<ul style="list-style-type: none"> Compactness Follow political boundaries when practicable Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
Advisory Commission	

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How are districts drawn?	
Process	<ul style="list-style-type: none"> Advisory Commission draws the lines State Legislature approves the plan Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow political boundaries when practicable
MARYLAND	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor cannot veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow political boundaries when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor cannot veto the plan
Criteria	None
MASSACHUSETTS	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor cannot veto the plan State Supreme Court will review the plan if a registered voter asks
Criteria	<ul style="list-style-type: none"> Contiguity Follow county, town and city boundaries when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	None

APPENDIX A: STATE-BY-STATE GUIDE

MICHIGAN	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan ▪ State Supreme Court will review the plan if a qualified elector asks
Criteria	<ul style="list-style-type: none"> ▪ Compactness (area of circle around district) ▪ Contiguity ▪ Follow county boundaries when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	Same as for state legislative districts
MINNESOTA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Population of a district may not deviate more than 2% from ideal ▪ Compactness ▪ Contiguity ▪ Follow county, city and town boundaries when practicable ▪ Preserve communities of interest when practicable ▪ Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
MISSISSIPPI	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature or Backup Commission <ul style="list-style-type: none"> ▪ 5 members: Chief Justice, Attorney General, Secretary of State, legislative majority leaders 	

APPENDIX A: STATE-BY-STATE GUIDE

How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature attempts to adopt redistricting plan, not subject to veto by Governor ▪ If no plan is adopted by the end of the state legislative session, or during a 30-day special apportionment session to be convened within 30 days following the end of the regular session, Backup Commission draws the lines, not subject to veto by the Governor
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity ▪ Follow county and election district boundaries when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Contiguity
MISSOURI	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>For House districts: House Politician Commission</p> <ul style="list-style-type: none"> ▪ 18 members: each major party selects 2 nominees per Congressional district; Governor chooses 1 of the nominees per party per Congressional district ▪ No more than 1 commissioner from each state legislative district may be nominated <p>For Senate districts: Senate Politician Commission</p> <ul style="list-style-type: none"> ▪ 10 members: each major party selects 10 nominees; Governor chooses 5 of the nominees from each party 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ Politician Commission draw the lines ▪ Governor cannot veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity ▪ Follow county boundaries when practicable ▪ Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity
MONTANA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>Independent Commission</p> <ul style="list-style-type: none"> ▪ 5 members: legislative majority and minority leaders each select 1; those 4 commissioners select 1 tiebreaker ▪ 2 commissioners must be from western counties and 2 commissioners must be from eastern counties ▪ Commissioners cannot be public officials 	

APPENDIX A: STATE-BY-STATE GUIDE

How are districts drawn?	
Process	<ul style="list-style-type: none"> Independent Commission draws the lines Governor cannot veto the plan
Criteria	<ul style="list-style-type: none"> Population of each district may not deviate more than 1% from ideal, except to keep political boundaries intact Compactness (length-width) Contiguity Follow county and city boundaries when practicable Preserve communities of interest when practicable No undue favoritism towards incumbent or party Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Montana has only 1 Congressional district	
NEBRASKA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county boundaries when practicable No undue favoritism towards person or party
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
NEVADA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> None
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
NEW HAMPSHIRE	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Contiguity Follow town, ward and place boundaries when practicable

APPENDIX A: STATE-BY-STATE GUIDE

CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> None
NEW JERSEY	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
Politician Commission <ul style="list-style-type: none"> 10 members (11 in case of tie): major parties each choose 5; tiebreaker chosen if necessary by Chief Justice Geographical diversity must be given "due consideration" 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Politician Commission draws the lines Governor cannot veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow municipality boundaries when practicable Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
Politician Commission (separate from that used for state legislative districts) <ul style="list-style-type: none"> 13 members: legislative majority and minority leaders and state chairs of major parties each select 2; those 12 Commissioners select a tiebreaker Commissioners may not be members or employees of Congress 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor cannot veto the plan
Criteria	<ul style="list-style-type: none"> None
NEW MEXICO	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow political boundaries when practicable Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	

APPENDIX A: STATE-BY-STATE GUIDE

NEW YORK	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
Advisory Commission <ul style="list-style-type: none"> 6 members: legislative majority leaders each select 1 legislator and 1 non-legislator to serve as commissioners; legislative minority leaders each select 1 commissioner 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Advisory Commission draws the lines State Legislature approves the plan Governor can veto the plan State Supreme Court will review the plan if a citizen asks
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county, town and city block boundaries when practicable Nest Senate and House districts if possible
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
Advisory Commission	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Advisory Commission draws the lines State Legislature approves the plan Governor can veto the plan
Criteria	None
NORTH CAROLINA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor cannot veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county boundaries when practicable Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor cannot veto the plan
Criteria	None

APPENDIX A: STATE-BY-STATE GUIDE

NORTH DAKOTA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county and city boundaries when practicable Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
North Dakota has only 1 Congressional district	
OHIO	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
Politician Commission <ul style="list-style-type: none"> 5 members: Governor, State Auditor, Secretary of State are commissioners; legislative leaders of majority party select 1; legislative leaders of minority party select 1 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Politician Commission draws the lines Governor cannot veto the plan State Supreme Court will review the plan on request
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county, township, municipality and city ward boundaries when practicable Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
Advisory Commission <ul style="list-style-type: none"> Legislative majority leaders each appoint 2 legislators and 1 non-legislator No more than 2 commissioners appointed by each legislative majority leader may be members of the same party 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines with assistance from Advisory Commission Governor can veto the plan
Criteria	None
OKLAHOMA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature or Backup Commission <ul style="list-style-type: none"> 3 members: Attorney General, Superintendent of Public Instructions, State Treasurer 	

APPENDIX A: STATE-BY-STATE GUIDE

How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature attempts to adopt redistricting plan, subject to veto by Governor ▪ If no plan is adopted within the first 90 days of the state legislative session (2011 session begins on February 7), Backup Commission draws the lines, not subject to veto by Governor ▪ State Supreme Court will review the plan if a qualified elector asks
Criteria	<ul style="list-style-type: none"> ▪ Compactness (for Senate) ▪ Contiguity ▪ Follow county boundaries when practicable ▪ Preserve communities of interest when practicable (for Senate)
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	None
OREGON	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan ▪ State Supreme Court will review the plan if a qualified elector asks
Criteria	<ul style="list-style-type: none"> ▪ Contiguity ▪ Follow political boundaries when practicable ▪ Preserve communities of interest when practicable ▪ No undue favoritism towards person or party ▪ Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
PENNSYLVANIA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
Politician Commission <ul style="list-style-type: none"> ▪ 5 members: legislative majority and minority leaders each select 1; those 4 commissioners select tiebreaker, who may not be a public official 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ Politician Commission draws the lines ▪ Governor cannot veto the plan ▪ State Supreme Court will review the plan if an aggrieved person asks
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity ▪ Follow county, city, town and ward boundaries when practicable

APPENDIX A: STATE-BY-STATE GUIDE

CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> None
RHODE ISLAND	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>Advisory Commission</p> <ul style="list-style-type: none"> 16 members: legislative majority leaders each select 3 legislators and 3 non-legislators; legislative minority leaders each select 2 legislators Note: In 2001, the Advisory Commission was created to assist with downsizing the size of the legislature. It is not clear whether it will be used again in the future. 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Advisory Commission draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow political boundaries when practicable
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
Advisory Commission	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Advisory Commission draws the lines Governor can veto the plan
Criteria	Same as for state legislative districts
SOUTH CAROLINA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow political boundaries when practicable Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	

APPENDIX A: STATE-BY-STATE GUIDE

SOUTH DAKOTA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity ▪ Follow political boundaries when practicable ▪ Preserve communities of interest when practicable ▪ Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
South Dakota has only 1 Congressional district	
TENNESSEE	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Contiguity ▪ Follow political boundaries (split no more than 30 counties)
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	Same as for state legislative districts
Criteria	None
TEXAS	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature or Backup Commission <ul style="list-style-type: none"> ▪ 5 members: Lieutenant Governor, Attorney General, Comptroller of Public Accounts, Commissioner of the General Land Office, House Majority Leader 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature attempts to adopt redistricting plan, subject to veto by Governor ▪ If no plan is adopted by the end of the regular legislative session (2011 session ends May 30), Backup Commission draws the lines, not subject to veto by Governor
Criteria	<ul style="list-style-type: none"> ▪ Contiguity ▪ Follow county boundaries when practicable

APPENDIX A: STATE-BY-STATE GUIDE

CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> None
UTAH	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Population of a district may not deviate more than 4% from ideal Compactness Contiguity
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
VERMONT	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
Advisory Commission <ul style="list-style-type: none"> 5 members: Governor selects 1 from each major party; each major party selects 1; Chief Justice selects 1 Gubernatorial and party appointees must have resided in the state for at least 5 years prior to appointment 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Advisory Commission draws the lines Governor can veto the plan State Supreme Court will review the plan if 5 or more electors ask
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county boundaries when practicable Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Vermont has only 1 Congressional district	
VIRGINIA	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	

APPENDIX A: STATE-BY-STATE GUIDE

How are districts drawn?	
Process	<ul style="list-style-type: none"> Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Population of a district may not deviate more than 4% from ideal Compactness Contiguity Preserve communities of interest when practicable
CONGRESSIONAL DISTRICTS	
Same as for state legislative districts	
WASHINGTON	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
<p>Independent Commission</p> <ul style="list-style-type: none"> 5 members: legislative majority and minority leaders each select 1; those 4 commissioners then select 1 non-voting chair Commissioners must be registered voters Commissioners must not have been lobbyists within 1 year prior to appointment Commissioners must not have been officials or candidates within 2 years prior to appointment 	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Independent Commission draws the lines Governor cannot veto the plan State Supreme Court will review the plan automatically if it is submitted late or if a registered voter asks
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county and municipality boundaries when practicable Preserve communities of interest when practicable No undue favoritism towards party or group Nest Senate and House districts Encourage competition
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
Independent Commission	
How are districts drawn?	
Process	<ul style="list-style-type: none"> Independent Commission draws the lines Governor cannot veto the plan
Criteria	Same as for state legislative districts
WEST VIRGINIA	
STATE LEGISLATIVE DISTRICTS	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> State Legislature draws the lines Governor can veto the plan
Criteria	<ul style="list-style-type: none"> Compactness Contiguity Follow county boundaries when practicable Preserve communities of interest when practicable

APPENDIX A: STATE-BY-STATE GUIDE

CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	Same as for state legislative districts
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity
WISCONSIN	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ State Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity ▪ Follow ward boundaries when practicable ▪ Preserve communities of interest when practicable ▪ Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	Same as for state legislative districts
Criteria	None
WYOMING	
STATE LEGISLATIVE DISTRICTS	
Who draws the districts?	
State Legislature	
How are districts drawn?	
Process	<ul style="list-style-type: none"> ▪ Legislature draws the lines ▪ Governor can veto the plan
Criteria	<ul style="list-style-type: none"> ▪ Compactness ▪ Contiguity ▪ Follow county boundaries when practicable ▪ Preserve communities of interest when practicable ▪ Nest Senate and House districts
CONGRESSIONAL DISTRICTS	
Wyoming has only 1 Congressional district	

APPENDIX B: WHO DRAWS THE LINES

	STATE LEGISLATIVE DISTRICTS							CONGRESSIONAL DISTRICTS						
	Advisory Commission	Legislature	Governor's Veto	Backup Commission	Court	Politician Commission	Independent Commission	Advisory Commission	Legislature	Governor's Veto	Backup Commission	Court	Politician Commission	Independent Commission
AK					Yes	Yes		1 Congressional district						
AL		Yes	Yes		Yes			Yes	Yes		Yes			
AR					Yes	Yes		Yes	Yes		Yes			
AZ					Yes		Yes					Yes		Yes
CA					Yes		Yes	Yes	Yes		Yes			Yes
CO					Yes	Yes		Yes	Yes		Yes			
CT		Yes		Yes	Yes			Yes		Yes	Yes			
DE		Yes	Yes		Yes			1 Congressional district						
FL		Yes			Yes			Yes	Yes		Yes			
GA		Yes	Yes		Yes			Yes	Yes		Yes			
HI					Yes	Yes						Yes	Yes	
IA	Yes	Yes	Yes		Yes			Yes	Yes	Yes		Yes		
ID					Yes		Yes					Yes		Yes
IL		Yes	Yes	Yes	Yes			Yes	Yes		Yes			
IN		Yes	Yes		Yes			Yes	Yes	Yes	Yes			
KS		Yes	Yes		Yes			Yes	Yes		Yes			
KY		Yes	Yes		Yes			Yes	Yes		Yes			
LA		Yes	Yes		Yes			Yes	Yes		Yes			
MA		Yes	Yes		Yes			Yes	Yes		Yes			
MD		Yes		Yes	Yes			Yes	Yes		Yes			
ME	Yes	Yes	Yes		Yes			Yes	Yes	Yes		Yes		
MI		Yes	Yes		Yes			Yes	Yes		Yes			
MN		Yes	Yes		Yes			Yes	Yes		Yes			
MO					Yes	Yes		Yes	Yes		Yes			
MS		Yes		Yes	Yes			Yes	Yes		Yes			

A bold "yes" indicates primary redistricting role; an italicized "yes" shows a subsidiary role. A box shows who drew the lines in the 2001 cycle. The color shows partisan control; blue is for Democratic, red is for Republican, and white indicates a bipartisan or nonpartisan structure. Two boxes on the same row show that different entities drew the lines for different houses of the legislature.

APPENDIX B: WHO DRAWS THE LINES

	STATE LEGISLATIVE DISTRICTS							CONGRESSIONAL DISTRICTS						
	Advisory Commission	Legislature	Governor's Veto	Backup Commission	Court	Politician Commission	Independent Commission	Advisory Commission	Legislature	Governor's Veto	Backup Commission	Court	Politician Commission	Independent Commission
MT					Yes		Yes	1 Congressional district						
NC		Yes			Yes			Yes				Yes		
ND		Yes	Yes		Yes			1 Congressional district						
NE		Yes	Yes		Yes			Yes	Yes		Yes			
NH		Yes	Yes		Yes			Yes	Yes		Yes			
NJ					Yes	Yes						Yes	Yes	
NM		Yes	Yes		Yes			Yes	Yes		Yes			
NV		Yes	Yes		Yes			Yes				Yes		
NY	Yes	Yes	Yes		Yes			Yes	Yes	Yes		Yes		
OH					Yes	Yes		Yes	Yes	Yes		Yes		
OK		Yes	Yes	Yes	Yes			Yes	Yes		Yes			
OR		Yes	Yes	Yes	Yes			Yes	Yes		Yes			
PA					Yes	Yes		Yes	Yes		Yes			
RI	Yes	Yes	Yes		Yes			Yes	Yes	Yes		Yes		
SC		Yes	Yes		Yes			Yes	Yes		Yes			
SD		Yes	Yes		Yes			1 Congressional district						
TN		Yes	Yes		Yes			Yes	Yes		Yes			
TX		Yes	Yes	Yes	Yes			Yes	Yes		Yes			
UT		Yes	Yes		Yes			Yes	Yes		Yes			
VA		Yes	Yes	Yes	Yes			Yes	Yes		Yes			
VT	Yes	Yes	Yes		Yes			1 Congressional district						
WA					Yes	Yes						Yes	Yes	
WI		Yes	Yes		Yes			Yes	Yes		Yes			
WV		Yes	Yes		Yes			Yes	Yes		Yes			
WY		Yes	Yes	Yes	Yes			1 Congressional district						

A bold "yes" indicates primary redistricting role; an italicized "yes" shows a subsidiary role. A box shows who drew the lines in the 2001 cycle. The color shows partisan control; blue is for Democratic, red is for Republican, and white indicates a bipartisan or nonpartisan structure. Two boxes on the same row show that different entities drew the lines for different houses of the legislature.

APPENDIX C: WHERE THE LINES ARE DRAWN

	STATE LEGISLATIVE DISTRICTS							CONGRESSIONAL DISTRICTS
	Population Deviation	Compactness	Political Boundaries	Communities of Interest	No Partisan Favoritism	Encourage Competition	Nesting	
AK		YES		YES			YES	1 Congressional district
AL		yes	YES	yes				mostly same as state districts
AR			YES				YES	
AZ		PERIM	YES	YES		YES	IF POSS.	same as state districts
CA		YES	YES	YES	YES			same as state districts
CO	<5%	PERIM	YES	YES				
CT			YES					
DE					yes			1 Congressional district
FL		YES	YES		YES			same as state districts
GA			yes					same as state districts
HI		YES	YES	YES	YES		IF POSS.	same as state districts
IA	<5%	mult.	yes		yes		yes	same as state districts
ID		yes	YES	yes	yes		yes	same as state districts
IL		YES					YES	
IN								
KS		yes	yes	yes				same as state districts
KY			YES					different from state districts
LA			yes					same as state districts
MA			YES					
MD		YES	YES					
ME		YES	YES	yes				mostly same as state districts
MI		spread	YES					same as state districts
MN	<2%	yes	yes	yes			YES	same as state districts
MO		YES	YES	yes				mostly same as state districts
MS		yes	yes					

A “yes” indicates that the state imposed the designated type of limit on its districts; a blank space indicates no limit in that category. Bold caps indicates a constitutional limit; normal typeface indicates a statutory limit; and gray, italicized typeface indicates voluntary guidelines.

In most states, limits must be followed only as closely “as is practicable,” leaving substantial flexibility to the redistricting body to serve other goals as well. And in every state, such standards are always subordinate to federal equal population limits and to the federal Voting Rights Acts

APPENDIX C: WHERE THE LINES ARE DRAWN

	STATE LEGISLATIVE DISTRICTS							CONGRESSIONAL DISTRICTS
	Population Deviation	Compactness	Political Boundaries	Communities of Interest	No Partisan Favoritism	Encourage Competition	Nesting	
MT	<1%	spread	yes	yes	yes		YES	1 Congressional district
NC		YES	YES	YES				
ND		YES	yes				yes	1 Congressional district
NE		YES	YES		yes			same as state districts
NH			YES					
NJ		YES	YES				YES	
NM		yes	yes	yes				same as state districts
NV								
NY		YES	YES				IF POSS.	
OH		YES	YES				YES	
OK		YES	YES	YES				
OR			yes	yes	yes		YES	same as state districts
PA		YES	YES					
RI		YES	YES					same as state districts
SC		yes	yes	yes				same as state districts
SD		YES	yes	yes			YES	1 Congressional district
TN			YES					
TX			YES					
UT	<8%	yes						same as state districts
VA	<4%	YES		yes				same as state districts
VT		YES	YES	yes				1 Congressional district
WA		YES	YES	yes	YES	yes	yes	same as state districts
WI		YES	YES	yes			YES	
WV		YES	YES	yes				mostly same as state districts
WY		yes	yes	yes			<i>if poss.</i>	1 Congressional district

A “yes” indicates that the state imposed the designated type of limit on its districts; a blank space indicates no limit in that category. Bold caps indicates a constitutional limit; normal typeface indicates a statutory limit; and gray, italicized typeface indicates voluntary guidelines.

In most states, limits must be followed only as closely “as is practicable,” leaving substantial flexibility to the redistricting body to serve other goals as well. And in every state, such standards are always subordinate to federal equal population limits and to the federal Voting Rights Acts

APPENDIX D: ADDITIONAL RESOURCES

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² After the 2010 midterm elections, Republicans control the governorship and legislature in 21 states and the Democrats are in full control in 11 states.

³ See Justin Levitt, *A Citizen's Guide to Redistricting*, 2010 EDITION (Brennan Center 2010) available at http://www.brennancenter.org/content/resource/a_citizens_guide_to_redistricting_2010_edition/ [hereinafter *Citizen's Guide*].

⁴ *Id.* at 21.

⁵ *Id.* at 21.

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⁸ See, for example, *Public Mapping Project*, <http://www.publicmapping.org> (last visited Feb. 11, 2011).

⁹ Micah Altman et al., *From Crayons to Computers: The Evolution of Computer Use in Redistricting*, 23 SOC. SCI. COMPUTER REV. 334, 339 (2005). Professor Michael McDonald has collected the state websites providing redistricting data and other information about the redistricting process. See Michael McDonald, *United States Elections Project, 2001-2002 Redistricting in the 50 States*, at <http://www.publicmapping.org/resources/state-resources> (last visited Feb. 11, 2010).

¹⁰ The Supreme Court applied an equal population standard to Congressional districts in *Wesberry v. Sanders*, 376 U.S. 1 (1964), to state legislative districts in *Reynolds v. Sims*, 377 U.S. 533 (1964), and to local government districts in *Avery v. Midland County, Tex.*, 390 U.S. 474 (1968).

¹¹ *Avery*, 390 U.S. at 477.

¹² *Brown v. Thomson*, 462 U.S. 835, 842-43 (1983) (noting that state legislative districts may generally vary in population by up to 10% without establishing a prima facie case under the Fourteenth Amendment).

¹³ COLO. CONST. art. V, § 46; IOWA CODE § 42.4(1)(a).

¹⁴ *Shaw v. Reno*, 509 U.S. 630 (1993); J. Gerald Hebert et al., *The Realist's Guide to Redistricting: Avoiding the Legal Pitfalls* 64-71 (2d ed. 2010). For example, the Supreme Court has said that a specific effort to correct prior racial discrimination may be an interest sufficiently "compelling" to let governments draw districts based on race, *Shaw v. Hunt*, 517 U.S. 899, 909-10 (1996), but thus far, the courts have not directly confronted such a case.

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¹⁸ *See Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986) (these factors are often referred to as the “Gingles factors”); *see also* *Bartlett v. Strickland*, 129 S. Ct. 1231, 1242-48 (2009); *League of United Latin American Citizens (LULAC) v. Perry*, 548 U.S. 399 (2006).

¹⁹ *Bush v. Vera*, 517 U.S. 952, 958-959, 962-964 (1996) (plurality opinion); *see also* *Shaw v. Reno*, 509 U.S. 630 (1993); *Miller v. Johnson*, 515 U.S. 900, 916 (1995).

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