



# Pennsylvania Redistricting Advisory Council

## Draft Redistricting Principles

The Governor's Advisory Council sees three types of principles as necessary for the drawing of fair and unbiased Congressional maps. First, constitutional requirements and legal precedent constitute a set of legal principles that serve as a minimal floor of protection. Second, there are three principles of representation that are critical to assuring equal representation and fairness that should also be utilized by the Governor. Finally, we note the importance of fair and transparent processes in determining congressional districts.

### Legal Principles

As an initial step in analyzing a proposed Congressional redistricting plan, the Governor should evaluate the map's adherence to traditional neutral criteria that form a "floor" of protection against the dilution of votes in the creation of districts. The Free and Equal Elections Clause of the Pennsylvania Constitution requires that each congressional district must: be composed of compact and contiguous territory and minimize the division of political subdivisions as practicable. The Pennsylvania Supreme Court has noted that the goal is to create "representational districts that both maintain the geographical and social cohesion of the communities in which people live and conduct the majority of their day-to-day affairs." In addition, any proposed map must comply with the requirements of federal law, including most specifically, the constitutional requirement to maintain population equality among congressional districts and the provisions of the Voting Rights Act as they apply in Pennsylvania. *These federal and state legal principles mean that in evaluating a proposed Congressional map, the Governor should ensure that these legally mandated elements are complied with, along with other principles noted below.*

- Maintenance of population equality among congressional districts refers to the principle that that each district should be as nearly equal in population as practicable. As a result of the 2020 Census, the ideal Congressional district in Pennsylvania will contain 764,865 residents. *In evaluating a map, the governor should ensure that the deviations in populations between districts comply with the requirements of the Constitution.*
  - Assurance of contiguity refers to the principle that all territory within a district should connect to the rest of the district. *In evaluating a map, the governor should ensure that all parts of the district are in contact with another part of the district and should disfavor any map in which territory is only connected at a narrow single point.*
  - Maintaining compactness refers to the principle that the boundaries of a district should not be irregularly shaped or sprawl unnecessarily from a central area. Evaluation of compactness tends to focus formulaically on the relationship of the district's perimeter to its area, or the extent to which the district spreads from a central core. *In evaluating a proposed map, the governor should prioritize plan-*
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*level geographic compactness unless dispersion is required to advance another positive districting principle such as preserving communities of interest or avoiding municipal splits.*

- Minimization of division of political subdivisions refers to the principle that local political subdivisions--such as counties or, where possible, municipalities--should not be arbitrarily split into multiple districts. *In evaluating a proposed map, the governor should prioritize fewer subdivision splits unless a division is necessary to preserve a cohesive--and clearly identified--community of interest.*
- Finally, in certain circumstances, but only in those circumstances, the Voting Rights Act requires the creation of “majority-minority” districts in order to prevent the denial or abridgement of the right to vote based on race, color, or membership in a language minority. *In evaluating a proposed map, the Governor should independently consider whether the Voting Rights Act requires the creation of proposed majority-minority districts.*

## **Principles of Representation**

Assuming a map passed by the General Assembly complies with the principles above, the Governor should further evaluate the map to ensure that it does not unfairly dilute the power of a particular group’s vote. Essential to this evaluation are three additional principles of representation which contribute to the ultimate fairness of a Congressional district map: communities of interest should be kept whole, the composition of the delegation should be proportional to statewide voter preference, and the map should be responsive to changing voter preference. These principles operate as a further check on the two mechanisms of partisan gerrymandering: the placing of voters in districts with the intention that their votes will be wasted on candidates likely to win (packing), and the division of communities of voters into separate districts such that their votes will be wasted on candidates expected to lose (cracking). *In evaluating a proposed map, the Governor should consider the extent to which these principles of representation are met, when compared to other potential maps that could have been drawn.*

- Communities of interest are contiguous geographic areas or neighborhoods in which residents share common socio-economic and cultural interests which the residents of the region may seek to translate into effective representation. Examples of shared interests include those common to rural, urban, industrial or agricultural areas, where residents have similar work opportunities, share similar standards of living, use the same transportation facilities, or share common environmental, healthcare, or educational concerns, among others. While a community of interest may be contained within a single political subdivision, they often extend across borders within a region. *In evaluating a map, the Governor should consider the extent to which a map preserves cohesive communities of interest, particularly where failure to do so cannot be easily explained by compelling neutral factors outlined above.*
- Ensuring partisan fairness and proportionality requires that parties have the opportunity to translate their popular support into legislative representation with



approximately equal efficiency such that the proportion of districts whose voters favor each political party should correlate to the statewide preferences of the voters. Partisan fairness requires preventing structural advantage from being baked into the map so as to allow one party to more efficiently translate votes into seats in the delegation. *In evaluating a map, the Governor should analyze how it would have performed in a full range of prior statewide elections when compared to other potential maps which could have been drawn. A map with expected performance proportional to statewide voter preference should be favored as comporting with broad principles of fairness.*

- Responsiveness and competitiveness require that there are enough districts “in play” that changes in electoral sentiment can translate into clear changes in the overall composition of the Congressional delegation. A competitive district is one in which the electoral outcome is close enough that the district can change with shifting voter preferences. A responsive map is one with enough competitive districts to allow for changes in the composition of the delegation with changes in proportion of votes for the parties. Voters should not be deprived of their choice and a fair opportunity to elect candidates they support. *In evaluating a map, the Governor should analyze how it would have performed in a full range of prior statewide elections and favor a map with districts where partisan swings were reflected in changes in the congressional delegation.*

## **Principles of Process**

Beyond both the floor of protection and the additional checks on a partisan gerrymander endorsed above, it is critical that the map passed by the General Assembly is the result of a process that provides for meaningful public input, comment, and participation. Procedural fairness begins with strong engagement with members of the public as to their priorities for the redistricting process, with particular focus hearing about what ordinary Pennsylvanians identify as their communities of interest. Public engagement must continue when a proposed map is shared publicly, and a public record is created articulating specific decisions were made as they were. For instance, if certain counties were split in the map the public is entitled to know the justification for doing so. Likewise, if a map prioritizes specific communities of interest, the public should be told what those of interest are and how they were defined. If majority-minority districts are created, what factors resulted in the minority group’s denial of equal opportunity to participate in the political processes? *In evaluating a map, the Governor should disfavor any map that is made public and passed quickly with limited legislative debate or opportunity for public feedback and is not accompanied by a public record or narrative which explains the rationale for decisions which were made.*

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