



# Pennsylvania Redistricting Advisory Council

## Redistricting Principles

Under existing state law, Pennsylvania's congressional districts are drawn by the General Assembly and passed as a regular statute, subject to veto by the Governor. On September 13, 2021, Governor Wolf issued Executive Order 2021-05 establishing the Pennsylvania Redistricting Advisory Council and charging the Council with developing recommendations for the Governor in evaluating a congressional district map passed by the General Assembly.

The Council has identified three types of principles that it believes the Governor should adopt in determining the fairness and propriety of any proposed congressional map presented by the General Assembly. The first are legal principles, drawn from settled constitutional and legal requirements, that serve as a minimal floor of protection against improper maps. Second are principles of representation, three in particular, as described below, that are crucial to assuring equal representation and fairness in a resulting map. Finally, there are procedural principles that should be in place to ensure that Pennsylvania's congressional districts are drawn through a fair and transparent process.

### Legal Principles

As an initial step in analyzing a proposed congressional map, the Council believes that the Governor should evaluate the map's fidelity 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 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 require that, in evaluating a proposed Congressional map, the Governor 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.*
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- Assurance of contiguity refers to the principle that all territory within a district 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 proposed 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 level geographic compactness unless dispersion is required to advance another positive districting principle, such as preserving communities of interest or avoiding political-subdivision splits.*
  - Minimization of division of political subdivisions refers to the principle that local political subdivisions—such as counties or, where possible, municipalities and school districts— 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 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 proposed congressional map from 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 proposed map: communities of interest should be maintained, the composition of the congressional 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 features of partisan gerrymandering: the splitting of communities of voters across several districts to dilute their voting power (cracking), and squeezing as many voters of one political interest into just one or a few districts, thereby wasting their votes in those districts, which decreases the likelihood of success elsewhere (packing). *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.*

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- 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. In statewide listening sessions held by the Council, Pennsylvanians frequently emphasized communities of interest focused around school districts, colleges, industrial corridors, and commuting patterns, and urged particular attention to emerging communities of interest and demographic groups that are growing in Pennsylvania. While a community of interest may be contained within a single political subdivision, they often extend across borders within a region, and may be better represented by regional planning entities such as Councils of Governments. *In evaluating a proposed 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 proposed 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 proposed 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.*
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## 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 be the result of a process that provides an opportunity for meaningful public input, comment, and participation. In the Council's listening sessions, many participants pointed to the public processes that have accompanied citizen-mapping efforts over the past several months as exemplifying the level of transparency that is expected. Procedural fairness begins with strong engagement with members of the public as to their priorities for the redistricting process, with particular focus on hearing about what ordinary Pennsylvanians identify as their communities of interest.

And when the General Assembly's proposed map is shared publicly, a process of robust public engagement and transparency dictates that there be a public record accompanying the map setting forth why 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 the proposed map prioritizes specific communities of interest, the public should be told what those communities are and how they were defined. If majority-minority districts are created, there should be a discussion of the factors that resulted in the minority group's denial of equal opportunity to participate in the political processes. *In evaluating a proposed map, the Governor should disfavor any map that is made public and passed quickly with limited legislative debate or opportunity for public consideration. In addition, the Governor should more closely scrutinize any map that is not accompanied by a public record or narrative which explains the rationale for decisions which were made.*

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