



IN BRIEF: *MAKING IT REAL*

Drafting Checklist of Local Redistricting Commission Considerations

There are several important questions to consider when establishing a redistricting commission. For example:

- *Should the commission have authority to adopt new district boundaries?*
- *Should it just recommend new lines to the governing board?*
- *How should commissioners be selected?*
- *And what redistricting criteria should they use?*

This drafting checklist identifies those questions and many of the different ways local governments have answered them.

Symbol Key:

○ = select only one option (options are mutually exclusive)

□ = select as many options as desired

* = an SB 1108-mandated requirement of county and general law city independent commissions

1. Findings – why is the commission being created?

- ☐ **Fair Representation** – ensure fair and effective representation for all citizens
- ☐ **Public Participation** – increase public participation in redistricting
- ☐ **Conflict of Interest** – eliminate the conflict of interest of elected officials drawing their own districts
- ☐ **Representative Districting** – create more representative districts

2. Commission Authority – how will the local commission be created?

- **Charter Amendment** – a law, placed on the ballot by the governing board or by initiative and passed by the voters of the jurisdiction, which may only be changed with voter approval
- **Ordinance/Resolution** – a law, passed by the governing board, which may be changed by the board at any time
- **Minute Order** – a direction from the governing board to staff
- **State Law** – a law, passed by the state Legislature, which may only be changed by the state Legislature
- **Legal Settlement** – a settlement, approved by a judge, generally pursuant to a civil rights lawsuit

3. Commission Permanence – will the commission draw all future election districts, or just one set of maps?

- **Permanent** – the commission is re-established for every redistricting
- **One-Time** – the commission is established for this (re)districting but not future ones

4. **Commission Size** – the commission has ____ commissioners and ____ alternates.

5. **Commissioner Term** – how long do commissioners serve for?

- **Until Adoption** – a commissioner's term ends once new maps have been recommended/adopted
- **Until Next Redistricting** – a commissioner's term ends once a new commission has been created

6. **Commission Power** – what power does the commission have to adopt election district boundaries?

- **Independent** – the commission adopts election district boundaries for the governing body
- **Advisory** – the commission recommends election district boundaries to the governing body
- **Hybrid** – the commission adopts election district boundaries with some involvement from the governing body:
 - Consultation – the governing board provides feedback to the commission on its final draft election district map, which the commission may incorporate or ignore
 - Choice of Alternatives – the commission provides two or more draft election district maps to the governing board, which must adopt one of those maps
 - Supermajority Amendment – the commission's election district map goes into effect unchanged unless the governing board, by a supermajority vote, amends the map

7. **Selection Method** – how are commissioners appointed to the commission?

- **Political Appointment** – elected officials directly appoint the commissioners
- **Independent Appointment** – an independent body (e.g. a panel of retired judges) appoints the commissioners
- **Random Draw & Commission Appointment** – candidates apply for the commission; a subset of the commissioners are appointed by random draw from that pool; those commissioners appoint the last commissioners
- **Retired Judges** – retired county judges apply for and are appointed by random draw to the commission

8. **Commission Diversity** – are there requirements that the commission be diverse, and diverse in terms of what? The commission reasonably reflects the jurisdiction's diversity in terms of:

- ☐ **Geography**
 - ☐ Mandate – at least one commissioner is a resident of each of the jurisdiction's existing districts
- ☐ **Race/Ethnicity**, but without using formulas, quotas, or ratios
- ☐ **Gender**
- ☐ **Age**
- ☐ **Economic Class**
- ☐ **Sexual Orientation**
- ☐ **Party Registration**
 - Prohibited – party registration may not be considered in selecting commissioners
 - Token – all commissioners cannot be registered with the same political party*
 - Bipartisan – a minimum number of commissioners shall be registered: with the largest political party in the jurisdiction; with the second largest party; and with neither of those two parties
 - Partisan – commissioners' party registration is as proportional to the jurisdiction's party registration as may be

9. Commissioner Qualifications – what qualifications must a person have to be appointed the commission?

- ☐ **Subjective Qualifying Criteria** – a commissioner must:
 - ☐ be highly competent
 - ☐ be impartial
 - ☐ possess relevant analytical skills
 - ☐ know the jurisdiction's neighborhoods and communities
 - ☐ appreciate the jurisdiction's diversity
 - ☐ work well with others
- ☐ **Objective Qualifying Criteria** – a commissioner must:
 - ☐ Be a resident of the jurisdiction*
 - ☐ Have resided in the jurisdiction for at least ____ years
 - ☐ Be a registered voter of the jurisdiction
 - ☐ Have voted in ____ of the last ____ of the jurisdiction's elections
- ☐ **Objective Disqualifying Criteria** – prior to being appointed, a commissioner, and their immediate family members, may not have been a:
 - ☐ candidate for local office or a local elected official in the prior ____ years*
 - ☐ paid staffer or consultant to a candidate campaign for local elected office in the prior ____ years*
 - ☐ paid staffer or consultant to an incumbent local elected official in the prior ____ years*
 - ☐ elected officer, appointed officer, or paid staff of a state or county political party in the prior ____ years*
 - ☐ registered local lobbyist in the prior ____ years*
 - ☐ major local campaign contributor (\$____ or more to a candidate) in the prior ____ years*
 - ☐ officer of an active campaign committee that contributes to local candidates in the prior ____ years
 - ☐ appointed official to another local government board in the prior ____ years
 - ☐ government employee of the jurisdiction in the prior ____ years
 - ☐ contractor with a contract with the jurisdiction in the prior ____ years
 - ☐ redistricting consultant or contractor in the prior ____ years

10. Commissioner Restrictions – what restrictions are there on a commissioner's activities during and after their service?

- ☐ **During-Service Restrictions** – while on the commission, a commissioner:
 - ☐ must conduct themselves impartially in a manner that reinforces public confidence
 - ☐ may not endorse, work, or volunteer for, or contribute to, a local candidate campaign*
- ☐ **During and Post-Service Restrictions** – after adopting/recommending new election districts, a commissioner cannot, in that jurisdiction:
 - ☐ run for office in the districts they drew for ____ years.*
 - ☐ register as a lobbyist for ____ years.*
 - ☐ be appointed to another local board or commission for ____ years.*
 - ☐ receive a non-competitively bid contract for ____ years.*
 - ☐ be hired by an elected official as staff, contractor, or consultant for ____ years.*

11. Redistricting Criteria – which criteria should the commission use in drawing election districts? Are these criteria mandatory or considerations? Are the criteria equal in importance or listed in order of priority?

- ☐ **Equal Population** – the population of each district must be:
 - “Substantially Equal” – generally there should be no more than a 10% population deviation between the largest and smallest districts (state and local standard under U.S. Constitution)
 - “Reasonably Equal” – generally there should be no more than a 1% population deviation between the largest and smallest districts, but not more than a 2% deviation (state standard under California Constitution)
 - “As Nearly Equal as Practicable” – generally each district should have the exact same population (congressional standard under U.S. Constitution)
 - Within a Percentage Deviation from the Mean – each district’s population is substantially equal and does not deviate by more or less than ____% of the average (mean) district’s population
- ☐ **Geographic** –
 - ☐ Contiguity – each district is a single, unbroken shape so that it is possible to travel from one end of the district to the other without leaving the district
 - ☐ Compactness – each district is geographically compact such that nearby areas of population are not bypassed for more distant populations
 - ☐ Topography/Geography – districts respect different geographical or topographical areas, like rural vs urban areas, mountains vs valleys, or climate zones
 - ☐ Natural/Artificial Boundaries – district boundaries follow readily-identifiable natural and artificial boundaries or features, like rivers or highways
- ☐ **Demographic**
 - ☐ Federal Voting Rights Act – district boundaries do not infringe on a minority population’s right to vote, for example by cracking a minority community to dilute its voting power
 - ☐ Communities of Interest – districts keep intact communities of interest, which are contiguous populations that share common social or economic interests
 - ☐ Neighborhoods – districts keep intact local neighborhoods
- ☐ **Political**
 - ☐ Political Subdivisions – districts keep intact political subdivisions, like cities within a county
 - ☐ District cores – areas that have consistently been located within the same district should remain in that district
 - ☐ Census units – districts are composed of whole census units, like census tracts or blocks
 - ☐ Incumbency –
 - Non-Discrimination – districts are not drawn to favor or discriminate against an incumbent, political candidate, or political party*
 - Non-Competition – incumbents are not drawn into the same district
- ☐ **Other** – the commission may adopt other criteria that do not conflict with the enumerated criteria
- ☐ **Numbering** – the commission shall assign numbers to the new districts:
 - Discretionarily – in its discretion
 - Sequentially – consecutively, beginning at the northern boundary of the jurisdiction and ending at the southern boundary
 - To Promote Stability – so that the most people possible reside in the same-numbered district

12. Map Adoption – what is vote threshold for adopting maps?

- ☐ **Majority vote**
- ☐ **Supermajority vote** – a vote of ____ of ____ commissioners is required to adopt a final election district map.

13. Deadlines – should the ordinance specify redistricting deadlines?

- ☐ **Formation** – the commissioners must be selected no later than _____.
- ☐ **Adoption** – the commission must adopt a final map by _____.*

14. Impasse Procedure – what happens if an independent commission cannot agree on new district boundaries?

- ☐ **Superior Court** – the superior court redraws district boundaries
- ☐ **Temporary Map** – the draft map which received the most votes is temporarily adopted and submitted to the voters for approval; if disapproved, special masters are appointed to draw the new map
- ☐ **Special Masters** – the commission appoints a panel of experts to draw new district boundaries
- ☐ **Governing Board** – the governing board redraws its district boundaries

15. Mid-Cycle Redistricting – except by court order or when new territory has been annexed to the jurisdiction, should mid-cycle redistricting be permitted?

- ☐ **Mid-cycle redistricting permitted**
- ☐ **Mid-cycle redistricting prohibited**
- ☐ **Conditional mid-cycle redistricting** – mid-cycle redistricting is permitted whenever districts become significantly unequal in population

16. Annexation – what happens if, mid-cycle, new territory is added to the jurisdiction?

- ☐ **Governing Board Redistricting** – the governing board decides how to add the new territory to existing districts
- ☐ **Commission Redistricting** – the commission decides how to add the new territory to existing districts (Note: if commissioner terms have expired this may require creating a new commission)
- ☐ **Add to Closest District** – the new territory is added to the existing district with which it shares the largest border
- ☐ **Add to Least Populated District** – the new territory is added to the least populated, existing district with which it shares a border

17. Commissioner Removal & Replacement – who can remove a commissioner from office, for what reason, and how are they replaced?

- ☐ **Removing Body** – a commissioner can be removed by the:
 - ☐ Governing Board
 - ☐ Commission
- ☐ **Removal Protections** – a commissioner can only be removed:
 - ☐ For cause, including:
 - ☐ Substantial neglect of duty
 - ☐ Gross misconduct in office
 - ☐ Missing ____ public meetings without being excused by the commission chair
 - ☐ After receiving notice and an opportunity to respond
 - ☐ By a supermajority vote
 - ☐ With court approval, if the commissioner appeals their removal
- ☐ **Replacement** – commission vacancies are filled by:
 - ☐ Randomly selecting a new commissioner from the pool of alternates
 - ☐ The commission selecting a new commissioner from the pool of alternates
 - ☐ By re-opening the commission application and appointment process
 - ☐ A different, simplified application and appointment process

18. Transparency & Public Engagement – what rules must the commission follow to promote public engagement and ensure the commission is acting transparently?

- ☐ **State law** – commissions comply with applicable state laws, including:
 - ☐ **Ralph M. Brown Act** – governs local open meeting requirements, including 72-hour posting of agendas and public comment*
 - ☐ **California Public Records Act** – governs access to public records, including inspection of government records and procedures for responding to records requests*
- ☐ **Outreach** – jurisdiction staff must publicize the redistricting process and reach out to community groups, especially representing disadvantage communities, to encourage public participation
- ☐ **Public Meetings** – public meetings must meet the following requirements:
 - ☐ Number – the commission shall hold at least ____ public meetings before adopting a final map*
 - ☐ Pre-Draft Meetings – the commission shall hold at least ____ public meetings before drawing any draft maps
 - ☐ Notice – a draft map must be published for at least ____ days before it can be adopted*
 - ☐ Location –
 - ☐ public meetings must be held in different areas of the jurisdiction
 - ☐ public meetings must be located near public transit
 - ☐ public meetings must be in a location that is accessible to persons with disabilities
 - ☐ Timing – public meetings must be held on different days of the week and at different times
 - ☐ Translation Services – upon request, the commission must provide a translator for any of the major non-English languages spoken in the jurisdiction
- ☐ **Public Comment** – in addition to being able to comment at public meetings:
 - ☐ Written Public Comment – the public can submit written public comment, including draft maps
 - ☐ Mapping Data and Tools – the jurisdiction will provide the public with mapping data and, to the extent feasible, free online mapping tools to create draft maps
 - ☐ Lobbyist Disclosure – any person who is paid to communicate with the commission must disclose that fact in the communication
 - ☐ Publication of Ex-Parte Communication – any communication with a commissioner outside of the formal public comment process shall be published online
 - ☐ Prohibition of Ex-Parte Communication – members of the public may not communicate with a commissioner about redistricting outside of the formal public comment process
- ☐ **Final Report** – the commission shall publish a final report explaining the map it has produced and how it follows the enumerated redistricting criteria
- ☐ **Recommendations Report** – after adopting a final map, the commission shall publish a report suggesting changes to the redistricting procedures or ordinance to improve future redistrictings

19. Administration – what administrative rules govern how the commission operates?

- ☐ **Officers** – who selects the chair, vice chair, and/or other officers of the commission?
 - ☐ the commission
 - ☐ the entity that appointed the commissioners
 - ☐ the governing board
- ☐ **Commissioner Training** – is the jurisdiction required to train commissioners, and on what topics?
 - ☐ Federal, state, and local redistricting laws
 - ☐ Open meeting laws
 - ☐ Public records laws
 - ☐ Parliamentary procedure

- ☐ **Regulations** – who adopts the commission’s implementing regulations?
 - ☐ the commission
 - ☐ the governing board
- ☐ **Staffing** – who staffs the commission?
 - ☐ Government staff – the jurisdiction must assign legal, policy, and administrative staff to assist the commission
 - ☐ Outside Consultants – the commission may hire outside consultants, including redistricting or outreach consultants
 - ☐ Executive Director – the commission may hire an executive director
- ☐ **Budget** – how is the commission’s budget set?
 - ☐ Discretionary – the commission’s budget is in the discretion of the governing board
 - ☐ Sufficient funds – the governing board must appropriate sufficient funds for the commission
 - ☐ Prior Expenses + Inflation – the governing board must appropriate sufficient funds for the commission but no less than the last redistricting cycle’s appropriation, adjusted for inflation

20. Legal Challenge – the commission’s election district maps may be challenged under its enacting law within ____ days.

Interested in setting up a commission?

With the 2020 Census and subsequent redistricting approaching, the University of the Pacific’s McGeorge School of Law and California Common Cause have set up a joint program to assist local governments interested in starting their own redistricting commissions. Please visit www.localredistricting.org for more information regarding local redistricting law; sample redistricting ordinances from across the state; best practices recommendations; and customizable ordinance language.

If you are interested in having a presentation on local redistricting, would like help with drafting a redistricting ordinance, or would like other technical assistance, please contact:

Nicolas Heidorn

Local Redistricting Project Director

☎ (916) 443-1792

✉ nheidorn@pacific.edu

💻 www.localredistricting.org

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