

**Briefing Paper: Accepting Publicly Submitted Redistricting Plans**  
for the Districting and Apportionment Commission  
by Rachel Weiss, Research Analyst  
May 2011

Introduction

It is likely that individuals and interested groups will develop redistricting maps for the Districting and Apportionment Commission's consideration. It is also likely that the commission will want to review some of these plans more seriously than others. Given these realities, having policies established that specify when and in what manner an individual or interest group may submit a plan will allow the commission to manage its most limited resource: time.

This paper is designed to help commissioners to develop an understanding of the issue, to provide background on how other states with similarly structured commissions handle redistricting plans submitted by the public, and to offer questions the commissioners should consider before adopting a policy to guide public submissions.

At a minimum, the commission should accept maps -- computer generated or not, partial or statewide -- from interested individuals and organizations and enter those received into the permanent record, as with any other type of public comment. However, commissioners might also want to use a public submission -- or part of one -- as one of several plans on which it solicits public comment in a series of statewide public hearings or as the one it ultimately submits to the Legislature. In that case, the commission should consider adopting policies to guide submission of the plans from individuals and interested groups. In addition to helping staff and commissioners budget time, well-considered policies will help the public understand when and how to submit maps, including the requested formats.

The commission could consider treating the submission process somewhat like the legislative bill-drafting process in Montana. Legislators and their constituents come up with the ideas, and oftentimes drafts, for bills. Those ideas or draft bills are entered into the bill-drafting system maintained by the Legislative Services Division. Staff then work with the bills to draft or format them properly, ensuring all the essential parts of the bill are included and correct, while retaining the original sense of the bill's purpose. This process ensures that all bills are drafted in a timely, orderly fashion and introduced to the Legislature in the proper format.

A similar process could occur with plans submitted by the public. The commission would establish a deadline by which time all plans should be submitted to staff for the region the commission is mapping and debating at the time. It could also establish the desired format for the plans, ie, shapefiles that use Census geography and population data or paper maps. If a commissioner (or two or three, as the commission decides) wishes to present a public submission to the full commission for further consideration, staff could work with the plan creator to ensure the plan has assigned all geographic units and is formatted correctly before providing it to the full

commission. All other plans would be treated as public comment and distributed to commissioners and made available to the public, but would not undergo the additional review as would plans selected for further consideration.

See the Staff Recommendations section starting on page 8 for more detail on options and questions for the commission to consider. The appendices to the report include examples of the California, Idaho and Washington policies guiding plan submissions.

### Exploration of other commissions' policies regarding public plans

The rest of this paper reviews the relevant experiences of other states with similar independent redistricting commissions.<sup>1</sup>

Alaska, Arizona, Idaho, and Washington have commissions composed of citizens (no public officials allowed) that are appointed in a variety of manners, but generally by political leaders in the state.<sup>2</sup> Most of these states' constitutions give the commission authority over redistricting independent of the executive or legislative branch; Washington does allow its legislature to make limited amendments to the commission's plan, but only with a two-thirds vote of the legislature and only for limited a percentage of a district's population. As in Montana, commissioners in these states are prohibited from running for office for a period of time after their work is done. The length of time and specificity of the ban varies from state to state.

The rules in these states that govern what type of plans are accepted and how those plans are to be used also vary, from formal administrative rules to commission-established guidelines and policies to no written policy on the topic.

It is hard to estimate based on these states' experiences how many public plans this commission might expect to receive. In 2001, Idaho's legislature partnered with libraries to encourage members of the public to submit draft plans to the redistricting commission. According to librarians involved in the partnership, the experiment yielded fewer plans than

---

<sup>1</sup> In 2008, California voters approved an initiative to create an independent redistricting commission. Because the commission is still in its first cycle of work and developing its own procedures to handle the complex redistricting task, a review of the state's procedures and the results isn't included in this paper. However, Appendix C does contain a *draft* of the commission's possible guidelines on the submission of redistricting plans.

<sup>2</sup>Arizona being the exception. Appointments to Arizona's Commission are made by a commission that also handles appellate court appointees. California's selection is lengthy and designed to provide a balance among the state's complex geographic, economic, racial, ethnic, and political interests. For more information about this process see <http://wedrawthelines.ca.gov> or Rachel Weiss; "Back Page: Redistricting Before and After 'One Person, One Vote'"; *The Interim*; Montana Legislative Services Division; Oct. 2010; available from: <http://leg.mt.gov/css/Publications/Interim-Newsletter/2009-Interim-Newsletter/10-10-interim-newsletter.asp#ii>

expected,<sup>3</sup> but it generated at least 20 public plans. Ten years later, with more advanced and accessible technology, those numbers might not be indicative of future public interest. However, Washington State's redistricting commission received 23 third-party plans in 1991 but only seven in 2001. In short, there is no easy way to estimate the number of plans -- computer generated or less formal -- the commission might receive during the redistricting process. Thus, it would be wise for the commission to establish formal policies guiding public submissions of plans rather than handling the issue on a case-by-case basis.

## **Alaska**

In 1998, Alaskan voters amended their state constitution to change the composition of the state's redistricting board. Previously, the governor selected board members, who then advised the executive on the line-drawing process.<sup>4</sup> Currently, the governor appoints two members and the president of the senate, speaker of the house, and chief justice of the supreme court each select one member, respectively. The board now is independent of the executive and legislative branch. Similar to Montana, board members may not be public officials at the time of appointment or during the board's tenure.<sup>5</sup> The five members choose a chairman from among their ranks.

In the spring of 2000, the newly appointed board solicited public comment in a series of public hearings around the state. It sought "general advice, ideas, and comments from the public about redistricting" before beginning the drafting process; at this time, it also invited "interested groups and individuals" to submit proposed redistricting plans.<sup>6</sup> The board allowed each plan proposer to present the plan at a board meeting.<sup>7</sup> The board eventually adopted four proposed plans to submit for public comment, as required by the Alaska Constitution. Two of these plans were drafted by the board and its staff. Two plans were submitted by interested parties.<sup>8</sup>

---

<sup>3</sup>Lily Wai, Elaine Watson, and Stephen Woods; "Idaho Librarians' Role in Census Redistricting: The 2001-2002 Redistricting Process and How Librarians Made a Difference;" *Idaho Librarian*; Idaho Library Association; vol. 5, no. 1, Aug. 2003; available from: <http://www.idaholibraries.org/newidaholibrarian/200308/REDISTRICTING.htm>; accessed Feb. 4, 2010.

<sup>4</sup>"Ballot Measure 3: Constitutional Amendment to Reorganized Reapportionment Board;" Alaska 1998 Official Election Pamphlet, *Alaska Division of Elections*; available from: <http://www.elections.alaska.gov/1998oep/98bal3.htm>; accessed Feb. 2, 2010.

<sup>5</sup>The Alaska Constitution goes one step further, however, and also forbids public employees from serving on the board. Alaska Constitution, Article VI, Section 6.8 (a).

<sup>6</sup>Gordon S. Harrison; "Comment: The Aftermath of *In re 2001 Redistricting Cases*: The Need for a New Constitutional Scheme for Legislative Redistricting in Alaska;" *Alaska Law Review* 23:51 2006; p. 64. (will be referred to as Harrison) The author was the executive director of the Alaska Redistricting Board during the 2000 redistricting process.

<sup>7</sup>*Ibid.*

<sup>8</sup>*Ibid.*

The board received public comment on the various plans by holding meetings across the state and accepting written testimony. During deliberations, the board again allowed proponents of the submitted plans to discuss those plans with the board.<sup>9</sup> Eventually, the board amended and adopted as a final plan one of the proposed plans submitted by the interested parties.

After litigation ensued as a result of the first plan, the board met in April 2002 to amend their final plan to conform with a ruling by the Alaska Supreme Court.<sup>10</sup> Again, the board announced it would accept redistricting plans (statewide and partial) from interested parties. It received several plans drawn by individuals and groups, including one from a current board member.<sup>11</sup> In the end, the board considered 19 proposals during this second round of consideration; ten of these proposals were drawn by the board staff.<sup>12</sup>

The board chose as its final plan the proposal submitted by its board member who -- according to the executive director of the Alaska Redistricting Board at the time -- had developed his plan in coordination with several legislators and the plaintiffs in the earlier lawsuit against the first plan.<sup>13</sup> This amended plan was upheld by two courts and pre-cleared by the U.S. Department of Justice,<sup>14</sup> and become the plan under which Alaska elections are currently held.

In 2011, the newly formed Alaska Redistricting Board again solicited and accepted draft plans from various interested groups. The board is currently accepted public comment on several "private" plans submitted by seven different organizations in addition to the two plans drafted by the board.<sup>15</sup> As in the last cycle, the board did not draft any formal written guidelines to govern submission of the plans.<sup>16</sup>

---

<sup>9</sup>Harrison, p. 66.

<sup>10</sup>Harrison, p. 68.

<sup>11</sup>Harrison, p. 68-69.

<sup>12</sup>Harrison, p. 69.

<sup>13</sup>Ibid.

<sup>14</sup>Harrison, p. 69-70.

<sup>15</sup>"Private Plans;" *Alaska Redistricting Board*; available from: <http://www.akredistricting.org/privateplans.html>; accessed April 28, 2011.

<sup>16</sup>Phone discussion with board staff.

## Arizona

Arizona voters established the state's Independent Redistricting Commission when they approved Proposition 106 in the 2000 election.<sup>17</sup> Five commissioners are selected from a pool of 25 nominees: ten from each of the two largest political parties in Arizona and the remaining five who are not members of either of the two largest parties. Arizona's Commission on Appellate Court Appointees creates the initial pool of nominees. In turn, each of the following selects a commissioner from the pool: the highest-ranking officer of the Arizona House; the minority leader of the Arizona House; the majority leader of the Arizona Senate; and the minority leader of the Arizona Senate. Those four commissioners elect a fifth member from the five nominees who are not members of either of the two largest parties. If the commissioners cannot agree, the Commission on Appellate Court Appointees will select the fifth commissioner.<sup>18</sup>

During the 2000 redistricting round, the Arizona Commission held numerous public hearings before and after initial grids and, later, a draft map was presented.<sup>19</sup> Arizona has a unique, rather complicated process for developing redistricting maps. First, the state is divided into districts of equal population in a "grid-like pattern."<sup>20</sup> The grids are then adjusted to comply with various districting goals listed in Proposition 106.

As part of the process of grid adjustment in 2001, the commission and its consultants solicited from the public comment to help identify communities of interest, neighborhoods, and other geographical areas or groups of people that were important to Arizonans. The consultants sent out "citizen kits," which included a map and a form to help guide public comments to the commission. The returned maps and other comments were compiled in a notebook for the commissioners and used when considering adjustments to the initial grid.<sup>21</sup> Judging from testimony given during various meetings, numerous interested parties and individuals did submit

---

<sup>17</sup>"Frequently Asked Questions;" *Arizona Independent Redistricting Commission*; available from: <http://www.azredistricting.org/?page=faq>; accessed Feb. 2, 2010.

<sup>18</sup>Summarized from "Proposition 106;" *Arizona Independent Redistricting Commission*; available from: <http://www.azredistricting.org/?page=prop106>; accessed Feb. 2, 2010.

<sup>19</sup>Proposition 106 sets out a specific method by which the commission must draw lines. First, the commission must create grid-like districts of equal population across the state. Then, using a list of "goals" set out in the Arizona Constitution, the commission proceeds to adjust the grid to achieve those goals. The resulting map must be submitted for public comment before it can vote on a final plan.

<sup>20</sup>Proposition 106;" *Arizona Independent Redistricting Commission*; available from: <http://www.azredistricting.org/?page=prop106>; accessed May 21, 2010.

<sup>21</sup> The summary of this process was generated from information provided in the meeting transcripts of the Arizona Independent Redistricting Commission, available at <http://www.azredistricting.org/?page=meetings>, and the public hearing transcripts, available at <http://www.azredistricting.org/?page=hearings>. Especially see pages 34-37 of the transcript from June 7, 2001, for a description of the intent of the citizen kits; and the July 6, 2001, transcript for a description of how the consultants compiled the information and maps generated by the citizen kits.

maps and descriptions of areas as public comment and those submissions were taken into careful consideration by both commissioners and consultants.<sup>22</sup>

## Idaho

The Idaho Redistricting Commission is a six-member body. Four members are selected by the leaders of the two largest parties in each the state house and senate. The chairs of the two parties whose candidates for governor received the most votes in the last election each select one member.<sup>23</sup>

In 2001, Idaho's Commission embarked on a test run of providing public access to redistricting software and data via several libraries in Idaho. Through an appropriation to the Idaho State Legislative Office (similar to Montana's Legislative Services), ten Idaho libraries and their staff received the same redistricting software, computer work station, and training that were provided to the commissioners and their staff.<sup>24</sup> The libraries, in turn, made the computer, software, and staff available to assist the public create and submit plans to the commission.

Idaho's 2001 Commission adopted formal redistricting policies and procedures to supplement the criteria already existing in Idaho statutes.<sup>25</sup> Among other things and probably as a result of the library experiment, the commission included guidelines about the submission of public plans to the commission. The adopted policies reminded the public that all maps submitted to the commission were public documents. They also described how maps should be drawn and submitted, what information should accompany the map, and a process by which staff would contact each person submitting maps to verify the authenticity of the maps. The commission warned that while it would accept partial plans, it had to consider the statewide impact of any regional plan.<sup>26</sup>

Given that the commission could not be sure how many public plans -- partial or statewide -- would be generated by the new legislative partnership with the libraries, it established a key policy: while all submitted plans became part of the permanent record, the

---

<sup>22</sup>Ibid.

<sup>23</sup>"Redistricting Commissions: Legislative Plans;" *National Conference of State Legislatures*; updated June 25, 2008; available from: <http://www.ncsl.org/?tabid=16617>; accessed Feb. 3, 2010.

<sup>24</sup>Lily Wai, Elaine Watson, and Stephen Woods; "Idaho Librarians' Role in Census Redistricting: The 2001-2002 Redistricting Process and How Librarians Made a Difference;" *Idaho Librarian*; Idaho Library Association; vol. 5, no. 1, Aug. 2003; available from: <http://www.idaholibraries.org/newidaholibrarian/200308/REDISTRICTING.htm>; accessed Feb. 4, 2010.

<sup>25</sup>"Redistricting Policies and Procedures;" *Idaho Commission on Redistricting*; June 6, 2001; available from: [http://swdb.berkeley.edu/resources/Court\\_Cases/idaho/State%20of%20Idaho%20Redistricting%202001.doc](http://swdb.berkeley.edu/resources/Court_Cases/idaho/State%20of%20Idaho%20Redistricting%202001.doc); accessed Feb. 4, 2010.

<sup>26</sup>Ibid.

commission would only consider a submitted plan if it was offered by a commissioner.<sup>27</sup> In that way, the commission could control its workload and that of its staff in the short 90-day redistricting period in Idaho.<sup>28</sup>

In the end, members of the public submitted 20 plans (19 legislative and one congressional). In comparison, commissioners or the commission itself drew 61 plans (47 legislative and 14 congressional).<sup>29</sup>

## Washington

In Washington, legislative leaders of the two largest political parties in each house of the state legislature select one member of the state's redistricting commission. The fifth member is chosen by at least three of the four original commissioners or the state supreme court if the first four cannot agree. The fifth member is to be the non-voting presiding officer.<sup>30</sup> Unlike some states with similar commissions, the Washington Commission submits a plan to the Legislature, which then may amend the plan. However, the amendments are limited in scope by law and must be enacted by a two-thirds vote of the Legislature.<sup>31</sup>

Title 417, chapter 6 of the Washington Administrative Code provides the rules regarding submission of redistricting plans. The chapter defines different types of plans and establishes rules for the format and content of submitted plans, as well as for their submission and release to the public. Essentially, the rules create two tiers of plans: formal and informal. All plans must adhere to the Washington Constitution and Revised Code, but formal plans must meet a set of formatting and content criteria. Informal plans are any plans that are submitted that do not qualify as formal plans.

---

<sup>27</sup>Ibid.

<sup>28</sup>"Redistricting Commissions: Legislative Plans;" *National Conference of State Legislatures*; updated June 25, 2008; available from: <http://www.ncsl.org/?tabid=16617>; accessed Feb. 3, 2010.

<sup>29</sup>Lily Wai, Elaine Watson, and Stephen Woods; "Idaho Librarians' Role in Census Redistricting: The 2001-2002 Redistricting Process and How Librarians Made a Difference;" *Idaho Librarian*; Idaho Library Association; vol. 5, no. 1, Aug. 2003; available from: <http://www.idaholibraries.org/newidaholibrarian/200308/REDISTRICTING.htm>; accessed Feb. 4, 2010.

<sup>30</sup>Washington Constitution, Article II, sec. 43; available from: <http://www.leg.wa.gov/lawsandagencyrules/pages/constitution.aspx>; accessed Feb. 4, 2010.

<sup>31</sup>Chapter 44.05 RCW, Washington State Redistricting Act; available from: <http://redistricting.wa.gov/>; accessed Feb. 4, 2010.

The 1991 Commission received 23 third-party plans (plans submitted by someone other than a commissioner or commission staff or the commission as a whole).<sup>32</sup> The 2001 Commission received seven plans: one formal plan (meeting legal requirements for a submitted plan) and six informal (not meeting the qualifications for a formal plan).<sup>33</sup>

### Staff Recommendations

Staff recommends that the commission adopt guidelines to instruct staff and the public on how the commission would like to handle submissions of redistricting plans. If the commission does adopt polices, the staff highly recommends that they include a deadline for plans to be submitted before public comment is taken on a regional or statewide plan.

### **Topics the guidelines might cover**

- Timeline for submission
- Definitions of key terms;
- Process for plan submission;
- Directions to staff for how to handle submissions;
- Information required to be submitted with maps;
- Process commission will use to consider plans;
- Reminder of public nature of plans;
- Others?

### **Questions to consider**

- What information should be included with a public submission?
- Should staff contact the person or organization submitting a plan to verify it came from that source?
- Should a commissioner have to request that the full commission take public comment on a plan submitted by the public?
- Is a plan developed by a commissioner considered a public submission? If not, what rules, if any, are needed to guide those types of submissions?
- Should staff be instructed to run basic tests on the plans to determine the completeness or contiguity of a plan? Are there other functions staff should perform to prepare any plans submitted by a commissioner for your consideration as a whole?

---

<sup>32</sup>"Chronology of 1991 Redistricting Process," *1991 Washington State Redistricting Commission*; available from: [http://www.secstate.wa.gov/legacyproject/ShiftingBoundaries/1990s/1991-Chronology\\_of\\_1991\\_Redistricting\\_Process-6a-1.pdf](http://www.secstate.wa.gov/legacyproject/ShiftingBoundaries/1990s/1991-Chronology_of_1991_Redistricting_Process-6a-1.pdf); accessed Feb. 4, 2010.

<sup>33</sup>"About Public Participation;" *2001 Washington State Redistricting Commission*; available from: <http://redistricting.wa.gov/>; accessed Feb. 4, 2010. The Redistricting Commission web page counts 9 plans as being submitted, but two of the plans were amendments to earlier submissions. For the purposes of this paper, those amendments were considered as parts of the original plan that they amended.



- How specific does the commission need or want to be? (As an example, the Idaho guidelines are less specific than the formal administrative rules of the Washington commission and the Alaska Board accepts all plans without adopting specific rules to govern the process.)
- Others?

**Possible courses of action**

- Direct staff to draw up a draft set of policies to guide submission of public plans and discuss/revise/adopt or reject the draft
  - ▶ Base policies on Idaho and/or Washington policies
  - ▶ Base policies on commissioner-provided guidelines
  - ▶ Base policies on combination of both commission input and other states' policies
- Do not adopt policies to guide submission of public plans.

CI0429 1123rwfa.

**Appendix A: Idaho 2001 Commission Redistricting Policies and Procedures**



## State of Idaho Redistricting 2001

### Redistricting Policies and Procedures As Adopted by the Commission

**Section 72-1506, Idaho Code. CRITERIA GOVERNING PLANS.**  
Congressional and legislative redistricting plans considered by the commission, and plans adopted by the commission, shall be governed by the following criteria:

1. The total state population as reported by the U.S. census bureau, and the population of subunits determined there from, shall be exclusive permissible data.
2. To the maximum extent possible, districts shall preserve traditional neighborhoods and local communities of interest.
3. Districts shall be substantially equal in population and should seek to comply with all applicable federal standards and statutes.
4. To the maximum extent possible, the plan should avoid drawing districts that are oddly shaped.
5. Division of counties should be avoided whenever possible. Counties should be divided into districts not wholly contained within that county only to the extent reasonably necessary to meet the requirements of the equal population principle. In the event that a county must be divided, the number of such divisions, per county, should be kept to a minimum.
6. To the extent that counties must be divided to create districts, such districts shall be composed of contiguous counties.
7. District boundaries should retain, as far as practicable, the local voting precinct boundary lines to the extent those lines comply with the provisions of section 34-306, Idaho Code.
8. Counties shall not be divided to protect a particular political party or a particular incumbent.

On June 6, 2001 the Commission on Redistricting adopted the following Policies and Procedures to supplement Idaho Code:

1. The precinct is the basic building block of a legislative district in

order to minimize voter confusion and cost of election administration. Proposed legislative districts that attempt to split precincts should be kept to a minimum. Where it is problematic to use precinct boundary lines, district lines should follow census geography.

2. The legislative districts must be numbered in a regular series, beginning with district one in the northernmost part of the state and proceeding south through the Panhandle then across the state generally from west to east. The congressional district that encompasses the Idaho Panhandle shall be numbered congressional district one.
3. The Commission staff will establish and maintain a meeting notice and contact list. Any individual or group wishing to receive notice of Commission meetings will be included in the list and shall receive meeting notice free of charge.
4. Commission staff will audiotape all Commission meetings. Summary minutes of all meetings will be kept and maintained as part of the public record. Copies of the minutes should be made available in a timely manner at a reasonable cost to cover the expense of copying from the Commission on Redistricting.
5. Individuals and groups speaking before the Commission are requested to, if possible, supply a written copy of their testimony.
6. When speaking to the Commission, an individual may address any area pertinent to the redistricting process. The Commission would like to hear testimony regarding local community interests including demographics, economics, geography, population trends and political and historical factors.
7. Once a plan has been submitted to the Commission, it shall be subject to the Public Records law.
8. The Redistricting Commission will comply fully with all applicable laws and rules that provide public access to the Commission's meetings, documents, and records. All databases on any medium created at public expense or held by the Commission or by a contractor or consultant to the Commission for use in the redistricting process are included as public records.
9. Copies of the Census Bureau's PL 94-171 population, race and ethnicity data, the TIGER/Line-based maps and other data sets used by the Commission on Redistricting will be made available to the public via CD-ROM at the cost of reproduction or on the Internet at INSIDE Idaho.
10. A single set of county precinct maps and precinct level summary population data and a statewide work map will be made available to any individual member of the public through the Redistricting

**Commission at cost.**

**11. An individual citizen or organization may submit a redistricting plan to the office of the Commission. Any such plans must be accompanied with the current contact information (name, address, telephone number) for the individual or group making the submission. All drafts of and amendments or revisions to plans presented at any public hearing or Commission meeting should be on clearly depicted maps which follow census geographic boundaries and should be accompanied by a statistical sheet listing the census geography including the total population and the minority population for each proposed district.**

**12. Commission staff will contact each individual or group having submitted a proposal to verify authenticity. The Commission will not accept plans that cannot be verified in this manner.**

**13. All plans submitted to the Redistricting Commission will be made part of the public record. A redistricting plan placed before the Commission for consideration must be offered by a member of the Commission.**

**14. The Commission has selected the publicly available, GIS-based redistricting software application autoBound for Redistricting (Digital Engineering Corporation, Columbia, Maryland). All GIS-based redistricting plans that are submitted to the Commission in electronic format must be able to be imported into autoBound. Those that are not autoBound compatible will be accepted in hard copy format.**

**15. In submitting proposed redistricting plans, the Commission expects that redistricting plans will meet the minimum standards established in the guidelines adopted by the Commission.**

**16. The Commission will permit the proposal of partial plans, though the Commission will consider the statewide impact of the partial plan in considering feasibility**

**17. The Commission on Redistricting will make plans and its official policies available for public inspection. Copies will be available at cost.**

**18. Commission staff will be available to all commissioners requesting assistance in drafting legislative and congressional district plans. Staff may assist others in drafting plans only at the direction of a member of the commission.**

**Appendix B:** Title 417 Washington Administrative Code, Redistricting Commission

Chapter 417-06 WAC  
Third party submissions

Last Update: 6/20/01

WAC Sections

- 417-06-100 Purpose.
- 417-06-110 Definitions.
- 417-06-120 Requirements applicable to all plans.
- 417-06-130 Format for formal plans.
- 417-06-135 Format for partial formal plans.
- 417-06-140 Format for informal plans.
- 417-06-150 Time and place of submissions.
- 417-06-160 Public access to third party plans.
- 417-06-170 Public rights in third party plans.

---

**417-06-100**  
**Purpose.**

The commission encourages individuals and interest groups to submit proposed redistricting plans to the commission. The purpose of this chapter is to establish methods by which such plans may be submitted to the commission.

[Statutory Authority: RCW 44.05.080(1), 91-20-006, § 417-06-100, filed 9/19/91, effective 10/20/91.]

---

**417-06-110**  
**Definitions.**

As used in this chapter:

- (1) All words and phrases defined in chapter one of this title (WAC 417-01-120) and RCW 44.05.020 shall have the same meaning for the purposes of this chapter.
- (2) "Commission plan" means a proposed plan of redistricting, including any amendment to a proposed plan of redistricting, that is submitted to the commission by a commissioner, or by the chair or the staff of the commission. It also means a plan of redistricting, including any amendment to a proposed plan of redistricting, that is prepared by or at the direction of one or more of the commissioners.
- (3) "Formal plan" means a redistricting plan other than a commission plan that meets the requirements of WAC 417-06-130 and that covers all of the territory of the state, or that covers at least all of the territory of the state that lies to the east of, or to the west of, the crest of the Cascade range.
- (4) "Partial formal plan" means a plan other than a commission plan that would qualify as a formal plan except that it covers a smaller geographical area than a formal plan.
- (5) "Informal plan" means a redistricting plan other than a commission plan that does not qualify as a formal plan or a partial formal plan.
- (6) "Third party amendment" means a proposal for an amendment to a commission plan or a third party plan, submitted to the commission by an individual or interest group other than the commissioners or the chair or staff of the commission. A third party amendment may be a formal plan, a partial formal plan, or an informal plan.
- (7) "Third party plan" means a plan of redistricting that is a formal plan, a partial formal plan, an informal plan or a third party amendment, submitted to the commission by an individual or interest group other than the commissioners or the chair or staff of the commission.

[Statutory Authority: RCW 44.05.080(1), 01-13-123, § 417-06-110, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-06-110, filed 9/19/91, effective 10/20/91.]

---

**417-06-120****Requirements applicable to all plans.**

The commission is required to adhere to the constitutional and statutory requirements applicable to redistricting plans. Therefore, any plan submitted to the commission must also adhere to the requirements applicable to commission plans, in art. 2, sec. 43 of the Constitution of the state of Washington and RCW 44.05.090. Copies of these constitutional and statutory provisions shall be made available from the commission.

[Statutory Authority: RCW 44.05.080(1), 01-13-123, § 417-06-120, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-06-120, filed 9/19/91, effective 10/20/91.]

---

**417-06-130****Format for formal plans.**

(1) Any formal plan submitted to the commission shall be submitted in one of the following approved formats:

(a) Paper map submissions: The commission will have available for public purchase paper maps, created using current geographic data provided by the U.S. Bureau of the Census. The maps will be sold for an amount (to be established by the executive director) sufficient to cover the cost to the commission of producing the map copies. Map scale may vary, depending on the population density in the area covered. Maps may be purchased singly or in sets. Formal plan paper map submissions from individuals and groups shall be made on the maps provided by the commission, or on full-size copies thereof. Explanations of the commission's maps, and instructions to users for submission of formal plans, shall be made available free of charge from the commission.

(b) Electronic submissions: Formal plan electronic submissions from individuals and groups shall be made on 3.5-inch floppy disks or on CD-ROMs containing a table of equivalencies file giving the census block to district assignments as assignment files in dBase, INFO, or text file format containing polygon identification and polygon district assignment columns; as district files containing a district identification number; or in a format approved by the U.S. Department of Justice. Materials explaining this format shall be made available free of charge from the commission. The commission shall make electronic information available which shall include census and geographic data. The electronic information will be made available at a charge (to be established by the executive director) sufficient to cover the cost to the commission of producing copies of the electronic files.

Each electronic formal plan submission shall be based upon current and official Bureau of the Census geography and Public Law 94-171 file unique block identity code of state, county, tract, and block, and shall be accompanied by a full description of its contents, including an identification by name and/or location of each data file that is contained, a detailed record layout for each such file, a record count for each such file, and a full description of the format.

(2) Individuals and groups submitting formal plans shall supplement their paper map or electronic submissions with the following information: Name, address and telephone number of a contact person; a submission cover letter; the total number of plans submitted; a narrative explanation of the plan's compliance with the constitutional and statutory requirements identified in WAC 417-06-120; and a description of the original source materials and data used for the submission. They may also include with the formal plan such other supporting materials and data as they deem appropriate.

[Statutory Authority: RCW 44.05.080(1), 01-13-123, § 417-06-130, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-06-130, filed 9/19/91, effective 10/20/91.]

---

**417-06-135****Format for partial formal plans.**

Partial formal plans shall meet the submission format requirements for formal plans.

[Statutory Authority: RCW 44.05.080(1), 01-13-123, § 417-06-135, filed 6/20/01, effective 7/9/01.]



---

**417-06-140****Format for informal plans.**

The commission requests that individuals and interest groups submitting informal plans use the paper map or electronic submission formats that are required for formal plans. The commission will accept informal plans that are submitted in nonconforming formats; however, such plans may not be capable of being tested for population data against the official census geography and Public Law 94-171 files that are incorporated in the commission's systems.

[Statutory Authority: RCW 44.05.080(1), 01-13-123, § 417-06-140, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-06-140, filed 9/19/91, effective 10/20/91.]

---

**417-06-150****Time and place of submissions.**

Early submission of third party plans is encouraged. All submissions and supporting materials should be mailed or delivered to the commission's office (not to a commissioner) in Olympia, or they may be presented to commission staff at any public hearing held by the commission. Submissions may be electronically mailed to the commission's address identified in WAC 417-01-125 only if the U.S. Postal Service or other carrier delivers a physical copy of all submission and supporting materials to the commission offices. The date of the electronically mailed submission shall be the date the delivered materials are received by the commission. The submission envelope, cover letter and all other submission materials should be clearly marked: "Redistricting Plan Submission." The person or organization submitting the plan bears the responsibility and accepts the risk to ensure timely delivery of the plan to the commission. The commission has no responsibility to review untimely or improperly submitted plans.

[Statutory Authority: RCW 44.05.080(1), 01-13-123, § 417-06-150, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-06-150, filed 9/19/91, effective 10/20/91.]

---

**417-06-160****Public access to third party plans.**

Any third party plan submitted to the commission, together with any supporting materials or data submitted in connection therewith, will be a public document, subject to inspection and copying in compliance with the commission's rules with respect to public records (chapter 417-02 WAC).

[Statutory Authority: RCW 44.05.080(1), 91-20-006, § 417-06-160, filed 9/19/91, effective 10/20/91.]

---

**417-06-170****Public rights in third party plans.**

The submission of any third party plan to the commission shall be deemed for all purposes a release and waiver, and an unconditional assignment to the state, of any proprietary or ownership rights therein, and in any materials or data submitted in connection therewith. The commission, the state supreme court, and any other person or entity shall have the free and unrestricted right to make any use whatever, without any charge (except for copying charges that may be assessed by the commission in response to public records requests for plans, under WAC 417-06-160 and chapter 417-02 WAC) and free of any trademark, copyright or similar restriction, of all or any part of any such third party plan, and any such materials or data.

[Statutory Authority: RCW 44.05.080(1), 01-13-123, § 417-06-170, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-06-170, filed 9/19/91, effective 10/20/91.]

**Appendix C: *DRAFT* Guidelines on the Submission of Statewide and Multiple District Plans to the California Citizens Redistricting Commission**

DRAFT

**GUIDELINES ON THE SUBMISSION OF  
STATEWIDE AND MULTIPLE DISTRICT PLANS  
TO THE CALIFORNIA CITIZENS REDISTRICTING COMMISSION**

**INTRODUCTION**

The California Citizens Redistricting Commission is soliciting information from a wide range of sources to assist in its development of district maps for the California congressional delegation, the state Assembly and state Senate, and the state Board of Equalization. In addition to conducting input hearings and receiving testimony from members of the public on local and regional interests, the Commission is providing opportunities for individuals and groups to submit statewide and multiple district plans to inform the Commission's work.

The Commission has allocated two days of public hearings – May 24 in Northern California, and May 26 in Southern California – to provide the public with opportunities to present statewide and regional plans. Plans will be considered by the Commission even if they are not formally presented at a public hearing, but developers of these plans are strongly encouraged to participate in the hearing process to provide highlights of their plans and to be available to answer questions posed by the Commission and its staff and consultants.

This document provides guidance to the public regarding the submission of statewide and multiple district maps and reports. The guidance is not intended to constrain the type of data that the Commission will accept and consider, but is instead intended to offer information to members of the public that will assist them in producing plans that will be useful and informative to the Commission.

**I. GENERAL GUIDELINES AND CRITERIA**

Statewide and multiple district plans should contain a map or set of maps accompanied by a report that provides a description of the proposed district boundaries and the justifications for those boundaries. The accompanying report should confirm that the proposed districts are consistent with the legal requirements of the California Constitution (as amended by the Voters First Act and the Voters First Act for Congress). These requirements include the following criteria, which are listed in rank order:

1. districts should comply with the federal constitution, including population equality requirements
2. districts should comply with the federal Voting Rights Act of 1965
3. districts should be geographically contiguous
4. districts should respect the geographic integrity of any city, county, city and county, local neighborhood, or local community of interest to the extent possible without violating any preceding requirements

## D R A F T

5. districts should be drawn to encourage geographic compactness, to the extent practicable without conflicting with any preceding requirements
6. districts should be nested (each Senate district is composed of two whole, complete, adjacent Assembly districts; each Board of Equalization district is composed of 10 whole, complete, adjacent Senate districts), to the extent practicable without conflicting with any preceding requirements

The Commission is prohibited from considering the place of residence of any incumbent or political candidate in the creation of a map; nor can the Commission draw districts for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.

Recommendations for complying with the Commission's criteria are described in more detail below.

### A. POPULATION EQUALITY

Statewide and multiple district plans submitted to the Commission should rely on the most recent Census data in order to comply with federal constitutional requirements. These include the results of 2010 Census, which are available in the P.L. 94-171 dataset published by the Bureau of the Census and are also available at the California Statewide Database (<http://swdb.berkeley.edu>).

Based on 2010 Census data, the ideal population sizes for single-member districts are the following:

Congressional (53 Districts):	702,905
State Assembly (80 Districts):	465,674
State Senate (40 Districts):	931,349
State Board of Equalization (4 Districts):	9,313,489

Plans submitted to the Commission should contain a listing of the population size of each proposed district, as well as the district's percentage deviation from the ideal population size. Any statewide maps should provide the plan's maximum population deviation (i.e., the sum of (1) the percentage deviation of the most populated district from the ideal population size and (2) the percentage deviation of the least populated district from the ideal population size). Plans should also describe the justifications for the deviations.

Both the California Constitution and federal case law require that Congressional districts shall achieve population equality as nearly as practicable.

State Assembly, Senate, and Board of Equalization districts are required under the California Constitution to have reasonably equal population, except where deviation is required to comply with the federal Voting Rights Act or is otherwise allowable by law. Federal case law has generally permitted up to a ten percent (10%) maximum population deviation for state districts; however, larger deviations have been upheld by the courts

## DRAFT

with sufficient legal justification, while smaller deviations have been disallowed in some cases. Developers of plans should consult the applicable case law to determine whether any population deviations contained in their proposed plans comply with federal constitutional requirements.

### B. FEDERAL VOTING RIGHTS ACT

The federal Voting Rights Act of 1965 contains two provisions that apply to the California redistricting process: section 5 and section 2. Section 5 applies to districts that contain all or part of the following counties: Kings, Merced, Monterey, and Yuba. All maps produced by the Commission must be submitted for “preclearance” and receive approval by the federal government in order to satisfy section 5. Section 2 applies statewide and prohibits districting that is either intentionally discriminatory or results in discrimination on the basis of race, color, or membership in a protected language minority group (American Indian, Asian American, Alaskan Natives, or of Spanish heritage).

Section 5. The counties of Kings, Merced, Monterey, and Yuba are subject to section 5 preclearance requirements for any changes affecting the electoral process in their counties, including any new congressional, state legislative, and Board of Equalization districts. Plans submitted to the Commission that affect all or part of a section 5 county should have neither the purpose of discriminating against minority voters nor the effect of discriminating against minority voters by causing a “retrogression” in the ability of minority voters to elect their preferred candidate of choice.

Section 5’s retrogression requirement is satisfied if a proposed district does not make minority voters worse off than their current situation under an appropriate benchmark. That benchmark is the most recent legally enforceable redistricting plan (congressional and state plans enacted in 2001). Plans submitted to the Commission should attempt to comply with the Act so that minority voters in section 5 counties are no worse off in the proposed districts than their current position within the state’s existing districts.

Additional guidance on the requirements of the Commission to comply with section 5 is available at [http://www.justice.gov/crt/about/vot/Policy\\_Guidance.php](http://www.justice.gov/crt/about/vot/Policy_Guidance.php)

Section 2. The Commission is prohibited under section 2 from enacting plans that discriminate on the basis of race, color, or membership in a protected language minority group. The Commission seeks to comply with section 2 primarily by preventing minority vote dilution, which can arise in a number of ways, including the fragmentation of minority group populations between districts (“cracking”) and the overconcentration of minority group populations into a suboptimal number of districts (“packing”).

Under federal case law, the creation of “majority-minority” districts provides a remedy for minority vote dilution, and the Commission will attempt to draw majority-minority districts where necessary to prevent violations of section 2. Plans which propose that one or more majority-minority districts should be created to comply with section 2 should

## DRAFT

offer both district boundaries and any supporting information that will be useful to the Commission for determining whether the district is required in order to comply with the Act. This does not mean that a proposed plan must contain the quantum of evidence typically required in a section 2 lawsuit. However, the Commission encourages developers of plans to provide any relevant documentation that is consistent with the U.S. Supreme Court's ruling in *Thornburg v. Gingles*, including evidence related to the following:

- the minority group is sufficiently large and geographically compact to form a majority in a single-member district;
- the minority group is politically cohesive; and
- the majority votes sufficiently as a bloc to enable it usually to defeat the minority's preferred candidate

Federal law suggests that a majority-minority population under the first *Gingles* factor be judged on the basis of voting age population (VAP) or citizen voting-age population (CVAP); therefore, plans proposing majority-minority districts should provide both VAP and CVAP data tabulated by race and ethnicity. CVAP data are available in the American Community Survey dataset and a Census Bureau special tabulation, and VAP data are available in the P.L. 94-171 dataset.<sup>1</sup>

The Commission also encourages the inclusion of citations or copies of reports that may help document racially polarized voting relevant to the proposed districts. In addition, developers of plans are encouraged to provide any data pertaining to section 2's totality of circumstances test, including the "Senate factors" documenting discrimination relevant to the proposed districts.<sup>2</sup>

---

<sup>1</sup> Developers of plans should also refer to the OMB-issued Bulletin No. 00-02 ("Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Enforcement") for guidance on allocating multiple-race response data to address the first *Gingles* factor.

<sup>2</sup> The "1982 Senate Report Factors," which the federal courts have held to be probative in determining whether there has been a violation of section 2, include the following:

- the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of a minority group to register, to vote, or otherwise to participate in the democratic process;
- the extent to which voting in the state or political subdivision has been racially polarized;
- the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against a minority group;
- if applicable, whether the members of a minority group have been denied access to the candidate slating process in the state or political subdivision;
- the extent to which members of a minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment, and health, which hinder their ability to participate effectively in the political process;
- whether political campaigns have been characterized by overt or subtle racial appeals;
- the extent to which members of a minority group have been elected to public office in the state or political subdivision;
- whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of a specific minority group; and

## DRAFT

### C. CONTIGUITY

Proposed districts should comply with the requirement under the California Constitution that districts be geographically contiguous. In practical terms, contiguity requires that all parts of a district be connected at some point with the rest of the district; in other words, one can travel from any location within the district to another location within the district without having to cross a district boundary. Geographic units within a district, such as islands, can be separated by water, but these units will be contiguous if travel by water is possible within the district. Proposed plans should identify and provide justifications for any districts that are non-contiguous.

### D. MAINTAINING LOCAL GOVERNMENT BOUNDARIES, LOCAL NEIGHBORHOODS, AND LOCAL COMMUNITIES OF INTEREST

The California Constitution requires the Commission to respect the geographic integrity of any city, county, city and county, local neighborhood, or local community of interest to the extent possible without violating any preceding requirements. The Commission's interpretation of this requirement does not contemplate any rank ordering of these entities; in other words, the Commission will attempt to respect the geographic integrity of cities, counties, the City and County of San Francisco, local neighborhoods, and local communities of interest equivalently. Proposed plans submitted to the Commission should indicate (1) where any of these listed entities are maintained in districts and (2) if identified, where any of these entities are divided among districts, along with any justifications for those decisions.

Plans that attempt to preserve the integrity of any cities, counties, or the City and County of San Francisco should rely on commonly accepted boundaries to maintain these entities within districts. The most recent geographic data are available through the Census Bureau's 2010 TIGER/Line Shapefiles dataset. Plans that divide cities, counties, or the City and County of San Francisco should provide population counts for the split areas.

Plans that attempt to preserve the integrity of a local neighborhood should indicate the geographic boundaries of that neighborhood, as well as the general characteristics of the neighborhood. Developers of plans are also encouraged to document how any relevant demographic data support the preservation of neighborhood boundaries.

The California Constitution requires that a local community of interest be a contiguous population which shares common social and economic interests that should be included within a single district for purposes of effective and fair representation. However, the Commission cannot consider communities of interests that are based on relationships with political parties, incumbents, or political candidates. The Constitution also provides a non-exclusive list of examples of shared interests, including interests that are urban, rural, industrial, agricultural, based on shared living standards, based on common

- 
- whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice, or procedure is tenuous.

## DRAFT

transportation, based on similar work opportunities, or based on access to the same communication media.

Proposed plans may assert additional types of local communities of interest, as long as the population is contiguous and there are both social and economic interests shared within the community of interest. Plans that attempt to preserve the integrity of a local community of interest should indicate the geographic boundaries of the community of interest and should also describe the basis for the community of interest. Developers of plans are also encouraged to document how any relevant social and economic data support the preservation of a particular community of interest.

### E. COMPACTNESS

Where practicable and where doing so does not conflict with any previous criteria, the Commission will draw districts that encourage geographic compactness. Compactness is defined in the California Constitution to require that nearby areas of population not be bypassed for more distant populations. Proposed plans should attempt to create compact districts consistent with this definition, and plans that contain districts which are non-compact should identify those districts and the justifications for their boundaries. Plans are not required to provide any additional data based on commonly employed mathematical or geometric tests of compactness, but a compactness report, such as a population polygon measure, may be submitted in the proposed plan.

### F. NESTING

The California Constitution requires that where practicable and where doing so does not conflict with previous criteria, the Commission shall draw Senate districts composed of two whole, complete, and adjacent Assembly districts, and shall draw Board of Equalization districts composed of 10 whole, complete, and adjacent Senate districts. Plans containing nested districts should indicate the areas of nesting and provide a list of the Assembly districts contained within Senate districts and of the Senate districts contained within Board of Equalization districts.

## II. SUBMISSION FORMAT

The Commission strongly encourages developers of plans to submit copies of their plans well in advance of the May 24 and May 26 hearings. The following guidelines should be followed in submitting statewide or multiple district plans:

- An electronic version of the plan(s) contained on a CD, DVD, or USB drive should be submitted. Maps should be submitted in PDF format or in a commonly used graphics file format. Accompanying reports should be submitted in PDF or Microsoft Word format. Block equivalency files compatible with the Maptitude for Redistricting software package should be submitted along with the maps and



## DRAFT

accompanying reports. Equivalency files may be submitted in .dat, .dbf, or .txt format. Additional .shp files may also be included.

- Printed copies of maps and accompanying reports are not required, but may be included in the submissions.

All materials should be sent to the following address:

ATTN: Statewide/Regional Plan Submissions  
California Citizens Redistricting Commission  
1130 K Street, Suite 101  
Sacramento, CA 95814

### III. GUIDELINES FOR PRESENTATION AT PUBLIC HEARINGS

Public hearings for the presentation of statewide and regional plans have been scheduled for May 24 in \_\_\_\_\_ and May 26 in Northridge. Individuals or groups planning to offer highlights of their plans at one of the public hearings should present a request to the Commission no later than seventy-two (72) hours prior to a public hearing. The request should identify the name of the individual or group presenting the plan, the types of plans being submitted (congressional, state legislative, and/or Board of Equalization; statewide versus partial), and the amount of time requested to present highlights to the Commission, subject to the limitations set out below. Requests should be sent to: <INSERT E-MAIL>

The Commission will provide no more than twenty-five (25) minutes for representatives to provide highlights of their proposed plans and to answer questions from the Commission and its staff and consultants. Depending on the number of submissions and requests to testify at the public hearings, this allocation of time may be reduced, but in no case will it be less than fifteen (15) minutes. Presenters should provide key highlights of the plans and are urged to budget sufficient time within their total time allocation for questions and answers.

Presenters who wish to use PowerPoint or any other presentation software to highlight their plans should submit an electronic copy of their presentation at least 48 hours prior to the public hearing. Presentations should be sent to <INSERT E-MAIL>