

Summary of Redistricting Law, Criteria, and Process

2021-22 City Council Redistricting Process

Item No. 12.3

September 15, 2021

Overview of Redistricting Laws

- Menifee Municipal Code
- U.S. Constitution
- Federal Voting Rights Act
- California Elections Code
- California Constitution
- Case Law

Menifee Municipal Code

Chapter 2.04 City Council

Section 2.04.070 Councilmanic District Boundaries

Equal Population Principle

- General Principle: City Council Districts must be substantially equal in population
 - U.S. Constitution's Equal Protection Clause and “One-Person, One-Vote” Jurisprudence
 - California Elections Code Section 21621 (“substantially equal” in “total population” as required by the U.S. Constitution)

Equal Population Principle

- Make good faith effort to draw districts with equal population
- Exact equality is not required for local districts if deviation is justified by legitimate state purposes
- Deviation of less than 10 percent is presumptively valid
 - Only if for legitimate reasons
 - Deviations should be explained on traditional redistricting criteria of other lawful justifications
- Legal Authorities – U.S. Constitution, Supreme Court Case Law including *Reynolds v. Sims*, *Gaffney v. Cummings*, *Larios v. Cox*, *Harris v. Arizona Independent Redistricting Commission*

Equal Population Principle

- Deviations from equal population should be justified
 - Show consistent reliance on traditional redistricting criteria (e.g., respecting neighborhoods and communities of interest, observing natural and other boundaries, maintaining compact districts)
- Do not seek to disadvantage any particular group
- Show good faith effort

Equal Population Principle

- Measuring Population Equality and Deviation
 - Start with City's total population
 - Determine ideal equal population of the 5 Council Districts
 - Determine percent deviation from ideal of each district
 - Determine total percent deviation – difference between the districts with the greatest positive and negative percent deviations

Equal Population Principle

District	Total Population	Ideal Population	Percent Deviation
1	23,750	25,000	-5
2	25,625	25,000	+2.5
3	25,375	25,000	+1.5
4	25,250	25,000	+1.0

- Example of a City with a population of 100,000 and 4 Council Districts
- Total Percent Deviation = 7.5%

Traditional Redistricting Criteria

- Focus on traditional redistricting criteria
 - Contiguity
 - Compactness
 - Natural Boundaries and Streets
 - Neighborhood and Communities of Interest

- Legal Authorities – Case Law, California Constitution Article XXI, Section 2; California Elections Code Section 21621

Traditional Redistricting Criteria

- Contiguity – all parts of district should connect
- Compactness – district should be geographically compact
 - Many ways to measure compactness
 - Be aware of appearance, shape, and border lines
- Existing boundaries – observe existing boundaries
 - Geographic, topographic boundaries
 - Streets, Freeways
 - Other Boundaries

Traditional Redistricting Criteria

- Neighborhoods and Communities of Interest – preserve communities sharing common interests
 - Neighborhoods
 - Example of Common Interests
 - Land Use patterns (suburban, industrial, commercial)
 - Cultural and Language characteristics
 - Income Level
 - Educational Background; Employment and Economic patterns
 - Crime, schools, other common issues
 - Obtain public testimony and consider census data, City neighborhood information, planning information, etc.

Equal Protection Clause

- 14th Amendment's Equal Protection Clause prohibits the use of race as the predominant factor in redistricting except in narrow cases
 - race generally cannot be “predominant” factor
 - i.e., no racial gerrymandering
- Legal Authorities – U.S. Constitution; Supreme Court Case law including Shaw v. Reno, Miller v. Johnson, Bush v. Vera, Cromartie I & II, Alabama Legislative Black Caucus, Cooper v. Harris, Bethune-Hill

Equal Protection Clause

- 14th Amendment's Equal Protection Clause does not, however, prohibit all consideration of race
- May consider race as a factor along with traditional race-neutral redistricting criteria
- Consideration of traditional criteria should not be subordinated to consideration of race and should be contemporaneous

Equal Protection Clause

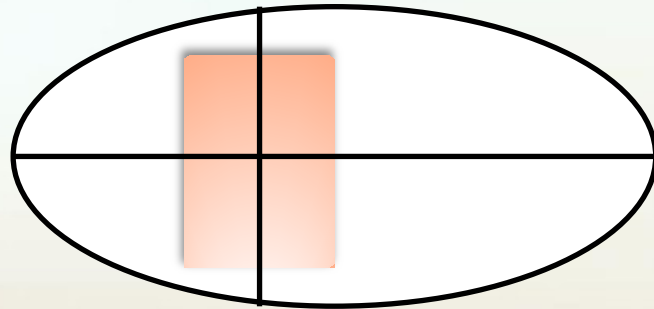
- Evidence of race as a predominant factor:
 - Direct testimony
 - Circumstantial evidence (demographics, shape, changes, process, public record)
- If race determined to be predominant factor, strict scrutiny applies to redistricting plan
 - Need compelling state interest
 - Plan must be narrowly tailored
 - High burden

Federal Voting Rights Act

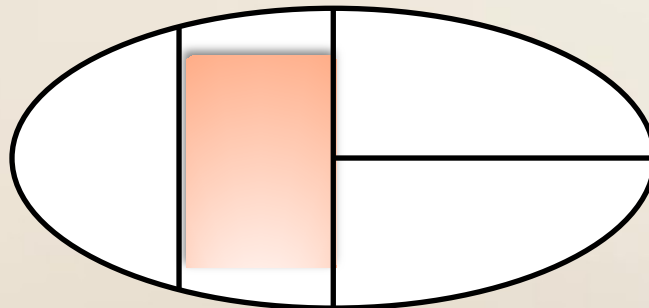
- Section 2 of the Voting Rights Act of 1965
 - Prohibits any voting practice or procedure that “results in a denial or abridgement” of the right to vote based on race, color, or language minority status
 - Applies to prohibit redistricting plans that result in “vote dilution” by depriving minority voters of an equal opportunity to elect a candidate of their choice
 - i.e., must not unlawfully minimize or cancel minority voting strength
 - Discriminatory effect sufficient, discriminatory intent not required

Federal Voting Rights Act

- Examples of “Vote Dilution”
 - **Fracturing** – dispersing minority voters into several different districts such that a bloc-voting majority can routinely outvote them



- **Packing** – concentrating minority voters into a small number of districts and thereby minimizing their influence in other districts



Federal Voting Rights Act

- The Supreme Court has set three preconditions to Section 2 liability under the federal VRA (the “Gingles” criteria)
 - The minority group must be sufficiently large and geographically compact to constitute a majority in a district
 - The minority group must be politically cohesive; and
 - The majority votes sufficiently as a bloc to enable it usually to defeat the minority’s preferred candidate
- Legal Authorities – Section 2 of the Voting Rights Act; *Thornburg v. Gingles*

Summary of Law and Criteria

- Key Principles to Keep in Mind
 - Strive for Population Equality
 - Make a good faith effort to draw districts equal in population
 - Justify any deviations with use of traditional redistricting criteria
 - Focus on Traditional Redistricting Criteria
 - Draw contiguous and compact districts
 - Respect boundaries, neighborhoods, and communities of interest
 - Obtain public testimony, neighborhood/community information, and make a good record
 - Do not Use Race as the Predominant Factor
 - Focus on traditional race-neutral criteria
 - Comply with the Voting Rights Act
 - Avoid fracturing or packing minority voters
 - Establish and Follow a Good Process

2021-22 Redistricting Timeline

- **Summary of Redistricting Law, Criteria, and Process** Wed. September 15, 2021
- **Public Workshop and Online Mapping Tool Presentation
Pre-Draft Map Public Hearing** Wed. November 3, 2021
- **Four Public Workshops** TBD
- **Presentation and Adoption of Draft City Council Member
District Boundaries Map
Pre-Final Map Public Hearing** Wed. February 2, 2022
- **Pre-Final Map Public Hearing** Wed. February 16, 2022
- **Presentation and Adoption of Final City Council Member
District Boundaries Map (First Reading)** Wed. March 2, 2022
- **Presentation and Adoption of Final City Council Member
District Boundaries Map (Second Reading if needed)** Wed. March 16, 2022