



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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## Redistricting in Ohio

Every ten years, Ohio must adopt new district maps for the purpose of electing members of the U.S. House of Representatives, the Ohio Senate, and the Ohio House of Representatives. This brief provides an overview of redistricting in Ohio, compares the separate constitutional processes for General Assembly and congressional redistricting, explains some essential district-drawing concepts, and summarizes several landmark U.S. Supreme Court rulings concerning redistricting.

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### Redistricting basics

Ohio elects its members of the U.S. House of Representatives, its state senators, and its state representatives from districts with roughly equal populations, giving each person’s vote the same amount of influence. Every ten years, Ohio must redraw its congressional and General Assembly districts based on the updated population data in order to maintain population equality between districts and, in some cases, to change the number of congressional districts to match the new number of representatives to which Ohio is entitled.



Congressional Districts  
2011-2021

The U.S. Census Bureau releases new population data for redistricting purposes by April 1 of each year ending in 1 (such as 2021), and the Ohio Constitution provides deadlines in the fall of that year to adopt new district maps (but see “**2020 U.S. Census delays**,” on page 8). The new maps must be in place in time to nominate congressional and General Assembly candidates in the primary election held

the next year. When that year is a presidential election year, candidates must file their papers based on the new district map as early as mid-December of the year ending in 1.<sup>1</sup>

## Redistricting processes at a glance

The state uses two separate processes for General Assembly and congressional redistricting. The voters approved a constitutional amendment implementing a new General Assembly redistricting process in November 2015, and a separate constitutional amendment prescribing a new congressional redistricting process in May 2018. The following table compares several major aspects of the processes. For detailed explanations of the General Assembly and congressional redistricting procedures, please see LSC's final analyses of [H.J.R. 12 of the 130<sup>th</sup> General Assembly](#) and [S.J.R. 5 of the 132<sup>nd</sup> General Assembly](#), respectively.

General Assembly Districts	Congressional Districts
<b>Who draws the districts</b>	
Ohio Redistricting Commission	General Assembly
<b>Required bipartisan vote</b>	
Four of seven members of the Commission, including at least two members who represent each of the two largest political parties represented in the General Assembly	¾ of the members of each chamber of the General Assembly, including at least ½ of the members of each of the two largest political parties represented in the chamber
<b>Deadline to adopt a plan – see “2020 U.S. Census delays,” below</b>	
September 1 of a year ending in 1	September 30 of a year ending in 1
<b>Impasse procedure</b>	
<ul style="list-style-type: none"> <li>▪ The deadline is extended to September 15.</li> <li>▪ If the Commission adopts the plan only by a simple majority vote, the plan must be replaced after four years.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Ohio Redistricting Commission must adopt a plan by a bipartisan vote by October 31.</li> <li>▪ If the Commission fails to do so, the General Assembly must adopt a plan by November 30.</li> <li>▪ If the General Assembly adopts the plan only by a simple majority vote, it must follow additional district standards, described below, and the plan must be replaced after four years.</li> </ul>

<sup>1</sup> 13 United States Code (U.S.C.) 141(c); Ohio Constitution, Articles XI and XIX; and R.C. 3513.05. Ohio's current district maps are available from the Ohio Secretary of State [here](#).

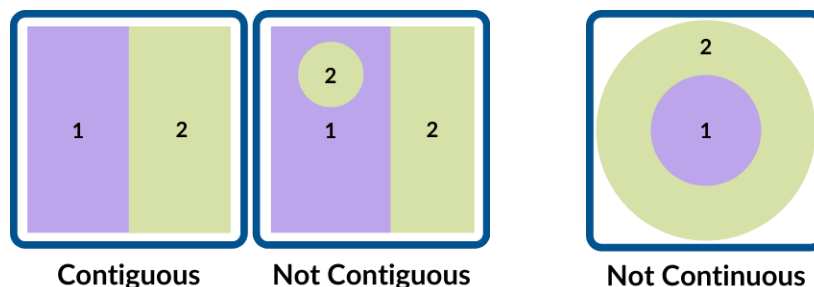
General Assembly Districts	Congressional Districts
<b>Population equality between districts</b>	
<ul style="list-style-type: none"> <li>▪ District populations must be substantially equal.</li> <li>▪ No district may contain a population of less than 95% or more than 105% of the ideal district population.</li> </ul>	<p>Not specified (see “<b>Selected U.S. Supreme Court cases,</b>” below)</p>
<b>District standards considered</b>	
<p>Mandatory standards:</p> <ul style="list-style-type: none"> <li>▪ Contiguity</li> <li>▪ Boundary must be a single nonintersecting continuous line</li> <li>▪ Keep counties, municipal corporations, and townships whole, based on a specified procedure</li> <li>▪ Each Senate district must consist of three contiguous House districts</li> </ul> <p>Standards the Commission must attempt to follow:</p> <ul style="list-style-type: none"> <li>▪ No plan shall be drawn primarily to favor or disfavor a political party.</li> <li>▪ The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party must correspond closely to the statewide preferences of the voters of Ohio.</li> <li>▪ Districts must be compact.</li> </ul>	<p>General standards:</p> <ul style="list-style-type: none"> <li>▪ Contiguity</li> <li>▪ Boundary must be a single nonintersecting continuous line</li> <li>▪ Compactness</li> <li>▪ Keep counties, municipal corporations, and townships whole, based on a specified procedure</li> </ul> <p>Standards the General Assembly must follow if it does not pass the plan by the required bipartisan vote:</p> <ul style="list-style-type: none"> <li>▪ The plan must not unduly favor or disfavor a political party or its incumbents.</li> <li>▪ The plan must not unduly split governmental units, giving preference to keeping whole, in the order named, counties, then townships and municipal corporations.</li> <li>▪ The General Assembly must attempt, but is not required, to draw districts that are compact.</li> </ul>
<b>Legal challenges</b>	
<ul style="list-style-type: none"> <li>▪ States that the Ohio Supreme Court has exclusive, original jurisdiction in any challenge.</li> <li>▪ Requires the Ohio Redistricting Commission to amend the plan or adopt a new plan, as applicable, if a plan, district, or group of districts is ruled unconstitutional.</li> </ul>	<ul style="list-style-type: none"> <li>▪ States that the Ohio Supreme Court has exclusive, original jurisdiction in any challenge.</li> <li>▪ Requires that, if a plan, district, or group of districts is ruled unconstitutional, the General Assembly must adopt a new plan within 30 days after the appeal deadline expires or</li> </ul>

General Assembly Districts	Congressional Districts
<ul style="list-style-type: none"> <li>Prohibits a court from ordering the implementation of a plan not approved by the Commission.</li> <li>Prohibits a court from ordering the Commission to adopt a particular plan or to draw a particular district.</li> <li>Prescribes the available remedies in the event that the Court determines that a General Assembly district plan adopted by the Commission does not comply with the constitutional district standards.</li> </ul>	<ul style="list-style-type: none"> <li>after the order is issued, if it is not appealable.</li> <li>Requires the Ohio Redistricting Commission to adopt a plan not later than 30 days after the General Assembly’s deadline, if the General Assembly misses the deadline.</li> <li>Requires the new plan to remedy any legal defects, but to include no other changes.</li> </ul>

## District-drawing concepts

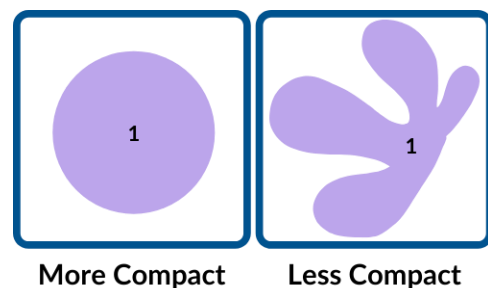
### Contiguity and continuous boundary lines

Every congressional and General Assembly district in Ohio must be contiguous, meaning that it is a single, unbroken shape, with no “islands” of territory that do not touch the rest of the district. Each district’s boundary also must be a single nonintersecting continuous line. This standard prevents, for example, the creation of “donut” districts, with one district entirely surrounding another.<sup>2</sup>



### Compactness

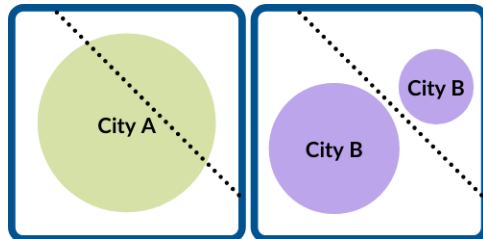
A district is considered compact if it has a minimal distance between all parts of its territory. Multiple methods exist to measure a district’s compactness, such as calculating the total length of its perimeter (a shorter perimeter meaning a more compact district), or calculating the average distance between locations on the outer edges of the district and the center of the district (a shorter average distance meaning a more compact district).



<sup>2</sup> Ohio Const., art. XI, sec. 3(B)(3) and art. XIX, sec. 2(B)(3).

Under the Ohio Constitution, the Ohio Redistricting Commission must attempt to draw compact General Assembly districts, but it is not explicitly required to do so. On the other hand, congressional districts must be compact, except that under the modified district standards that apply if the General Assembly fails to pass a district plan by the required bipartisan vote, the legislature must attempt to draw compact districts, but is not required to.<sup>3</sup>

### Keeping political subdivisions whole

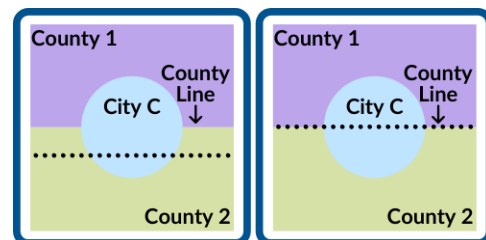


City A - Split

City B - Not Split

Ohio's congressional and General Assembly redistricting processes both place a priority on keeping counties, cities, villages, and townships together within one district. Splitting a political subdivision is necessary when, for example, its population exceeds the ideal district population. But, the Ohio Constitution includes procedures to minimize any unnecessary splitting.

Under both redistricting processes, a political subdivision is considered to be split if any contiguous portion of its territory is not contained entirely within one district. If a political subdivision has an island of territory that does not touch the rest of the subdivision, putting the island in a different district is not considered splitting the political subdivision (see above). Further, if a city, village, or township has territory in more than one county, drawing the district line along the county line is not considered splitting the city, village, or township.<sup>4</sup>

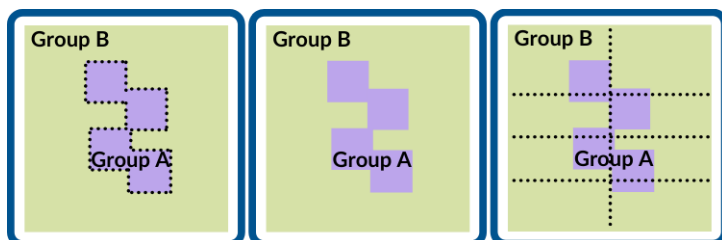


City C - Split

City C - Not Split

### Packing and cracking

Two district-drawing practices, commonly called packing and cracking, can give one group less influence than another. At one extreme, when a group is "packed" into a single district, it makes up a supermajority within the district, but is less able to influence the outcome of elections outside that district.



Packed

Cracked

Conversely, when a group is "cracked" among many districts, it makes up only a minority of the vote in each district, and is less able to influence the outcome of elections in any district. In some redistricting cases, packing and cracking have given rise to claims of unlawful gerrymandering (see "**Selected U.S. Supreme Court cases,**" below).

<sup>3</sup> Ohio Const., art. XI, sec. 6 and art. XIX, secs. 1(F)(3)(c) and 2(B)(2).

<sup>4</sup> Ohio Const., art. XI, sec. 3(D) and art. XIX, sec. 2(C).

## Political considerations

The Ohio Constitution includes two separate standards for the inclusion of political considerations in the drawing of district maps. For a General Assembly district plan, the Ohio Redistricting Commission must attempt to adopt a plan (1) that is not drawn primarily to favor or disfavor a political party, and (2) in which the statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party corresponds closely to the statewide preferences of the voters of Ohio.

For a congressional district map, the Ohio Constitution specifies that if, under the impasse procedure, the General Assembly passes a redistricting plan by a simple majority vote instead of by the required bipartisan vote, the plan must not unduly favor or disfavor a political party or its incumbents.<sup>5</sup>

## Majority-minority districts

The Equal Protection Clause of the 14<sup>th</sup> Amendment and the federal Voting Rights Act of 1965 (VRA) prohibit any district plan from denying or abridging citizens' right to vote on account of race, color, or status as a member of a language minority group. The U.S. Supreme Court has developed a test to determine whether a district map dilutes minority voting strength in violation of the VRA by cracking a minority population among multiple districts, as described above. Essentially, the test examines whether (1) the minority group is "sufficiently numerous and compact to form a majority in a single-member district," (2) the minority group is "politically cohesive," meaning its members tend to vote similarly, and (3) "the majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate."<sup>6</sup>

In order to remedy a case of minority vote dilution, a court may require the adoption of a majority-minority district, in which a sufficient population of a minority group exists to allow the group to elect its candidate of choice. Currently, no court has expressly required Ohio to create majority-minority congressional or General Assembly districts. A state may draw majority-minority districts voluntarily in order to remedy past discrimination. However, in some circumstances, the courts have overturned plans that included voluntarily created majority-minority districts because creating those districts amounted to unconstitutional racial gerrymandering.<sup>7</sup>

## Other common concepts

The Ohio Redistricting Commission and the General Assembly might consider other district-drawing concepts in creating district maps, so long as the constitutional requirements are met. For example, some states use criteria such as preserving communities of interest in a single district or maintaining previous district lines to the extent feasible. The National Conference of

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<sup>5</sup> Ohio Const., art. XI, sec. 6 and art. XIX, sec. 1(C)(3)(a) and (F)(3)(a).

<sup>6</sup> 52 U.S.C. 10301; *Thornburg v. Gingles*, 478 U.S. 30, 50 (1986); and *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 264 (1977).

<sup>7</sup> *Voinovich v. Quilter*, 507 U.S. 146 (1993); *Bush v. Vera*, 517 U.S. 952 (1996); *Shaw v. Hunt*, 517 U.S. 899 (1996); and *Alabama Legislative Black Caucus v. Alabama*, 135 S.Ct. 1257 (2015).

State Legislatures offers several useful references on these topics, including a 50-state survey of redistricting criteria and [The Redistricting Glossary](#).<sup>8</sup>

## Selected U.S. Supreme Court cases

The following cases represent a sample of the landmark U.S. Supreme Court rulings on congressional and state legislative redistricting. This list is intended to provide a basic foundation for understanding some of the legal discussions surrounding redistricting. However, the list is not exhaustive, and it does not include later rulings that have added nuance to these decisions.

### Population equality

- *Wesberry v. Sanders*, 376 U.S. 1 (1964) – Held that the population of congressional districts in the same state must be as nearly equal as practicable.
- *Reynolds v. Sims*, 377 U.S. 533 (1964) – Specified that the Equal Protection Clause of the 14<sup>th</sup> Amendment requires states to draw legislative districts that are substantially equal in population.
- *Karcher v. Daggett*, 462 U.S. 725 (1983) – Held that congressional districts must be mathematically equal in population, except as necessary to achieve a legitimate state objective.

### Racial and language minorities

- *Thornburg v. Gingles*, 478 U.S. 30 (1986) – Held that the VRA requires that a majority-minority district be drawn to remedy minority vote dilution if (1) the racial or language minority group is “sufficiently numerous and compact to form a majority in a single-member district,” (2) the minority group is “politically cohesive,” meaning its members tend to vote similarly, and (3) the “majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.”
- *Shaw v. Reno*, 509 U.S. 630 (1993) – Held that districts violate the Equal Protection Clause if they cannot be explained on grounds other than race.
- *Miller v. Johnson*, 515 U.S. 900 (1995) – Specified that a district is unconstitutionally racially gerrymandered if race is the “predominant” factor in drawing its lines.
- *Bush v. Vera*, 517 U.S. 952 (1996) – Found that if race was the predominant factor in drawing a district, the district cannot be justified by the VRA unless there is a strong basis in evidence that drawing the district was reasonably necessary to avoid denying or abridging equal voting rights.

### Partisan gerrymandering

- *Rucho v. Common Cause*, 139 S.Ct. 2484 (2019) – Found that partisan gerrymandering represents a political question on which the federal courts cannot rule because there is no credible way to define and measure fairness in the political context.

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<sup>8</sup> National Conference of State Legislatures, [NCSL’s Redistricting Webpages](#).

## 2020 U.S. Census delays

The Ohio Constitution requires Ohio to use population data from the U.S. Census to draw General Assembly and congressional districts, except that if the federal census is unavailable, the General Assembly may designate another data source by law.<sup>9</sup> Federal law requires the Census Bureau to provide the states with the necessary population data for redistricting by April 1 of a year ending in 1.<sup>10</sup> After receiving the data in April, Ohio's contractors typically are able to incorporate the data into a computerized map drawing database and deliver the database in July, allowing state officials to begin creating proposed district maps.

However, because of delays related to the COVID-19 pandemic, the Census Bureau announced that it could not provide the population data to the states by April 1, 2021. The Bureau promised to provide the data in a legacy format by "mid-to-late August 2021," and in a newer format by September 30, 2021.<sup>11</sup> Ohio's contractors are able to use the legacy format data to create the map drawing database, but still will need time after the data arrives to complete and deliver the database. This delay could create significant difficulties in meeting Ohio's constitutional redistricting deadlines in 2021.

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<sup>9</sup> Ohio Const., art. XI, secs. 3(A) and 7 and art. XIX, sec. 2(A).

<sup>10</sup> 13 U.S.C. 141(c).

<sup>11</sup> U.S. Census Bureau, *U.S. Census Bureau Statement on Release of Legacy Format Summary Redistricting Data File* (March 15, 2021).