

Part One of this three-part series explains **how the redistricting process works**. It describes the federal and state laws that govern it and provides an overview of the general timeline it must follow.

Federal Requirements

Article I, Section 2 and the 14th Amendment of the U.S. Constitution stipulate that members of the House of Representatives shall be apportioned to each state based on the “enumeration” of their populations every ten years. Federal law also requires each congressional district to be represented by a single member. In other words, legislators cannot draw a district twice as large and ask it to elect two Members of Congress.(i)

The U.S. Supreme Court has further defined the federal laws that guide redistricting. These decisions protect the idea of equal representation based on **“one person, one vote”** and help **prevent racial discrimination**.

Districts Must be About the Same Size.

In a 1964 ruling in *Reynolds v. Sims* -- a case made possible by its predecessor, Tennessee case *Baker v. Carr* -- the Supreme Court determined that the 14th Amendment’s Equal Protection Clause required states to create state legislative districts based on “substantial equality of population among the various districts.”(ii)

This idea of equal representation -- “one person, one vote” -- ensures that each elected official represents as close to the same number of constituents as possible, so that **each individual’s vote has about the same weight**.

To ensure equal representation, mapmakers divide the total state population by the total number of districts to determine how many people -- the **“ideal population”** -- each district should include. This concept is interpreted slightly differently at the federal and state levels.



Congressional Districts: Population sizes must be **“as nearly equal as possible,”** so that there is little to no variability between federal districts.



State Legislative Districts: State districts may be **“substantially equal”** due to the more difficult challenge of distributing populations into smaller districts and considering geographical and local factors.

States interpret “substantially equal” differently, but generally, maps with state districts that have populations within a **5% range above or below the ideal population** and have an overall or “maximum deviation” below 10% are considered **constitutionally acceptable**.

Legislatures Can't Discriminate Based on Race.

Section 2 of the Voting Rights Act (VRA) of 1965 and the Equal Protection Clause of the 14th Amendment **protect against racial discrimination** in redistricting.

The U.S. Supreme Court interpreted the U.S. Constitution to require a state to have a compelling reason before it can make the race or ethnicity of citizens the “predominant” reason for drawing particular district lines. The Court has repeatedly implied that one such compelling reason is to ensure compliance with the VRA.(iii)

The VRA prohibits states from drawing electoral districts in ways that improperly dilute the voting power of people of color. Such dilution could occur, for example, through “**cracking**” a community and distributing voters of color between several districts so as to weaken their electoral influence or through “**packing**” them into as few districts as possible.

To prevent dilution of a racial minority’s voting power in violation of the VRA, states may create “**majority-minority**” **districts** in which members of a racial minority constitute a majority of the voting population. Such districts provide an equal opportunity for racial minority populations to **elect a candidate of choice** rather than having their votes diluted in districts that diminish their political power.

Ideal Population, Population Variance and Maximum Deviation Demonstrated With 2010 Tennessee Census Data

Population Variance

Total
Population (iv) **6,346,105**

▶ Total Congressional Districts: 9

Ideal Population: $6,346,105 / 9 = 705,123$

Population Variance: Little to no variation

▶ Total State Senate Districts: 33

Ideal Population: $6,346,105 / 33 = 192,306$

Population Variance: $\pm 5\% = 201,921 - 182,691$

▶ Total State House Districts: 99

Ideal Population: $6,346,105 / 99 = 64,102$

Population Variance: $\pm 5\% = 67,307 - 60,897$

Generally to be considered “fair,” each district’s population should fall within the +5% and -5% range of the ideal population.

Population Deviation Range

Mapmakers also attempt to keep the “maximum deviation,” or the difference between the district with the largest additional population over and the lowest population under the ideal population, below 10%.

TN House District Ideal Population: 64,102

3 of Hamilton County's 5 Districts (v)

House District 28	67,292
-------------------	--------

House District 29	67,293
-------------------	--------

House District 30	67,297
-------------------	--------

+ 4.98%
of 64,102

2 of Williamson County's 3 Districts

House District 61	61,052
-------------------	--------

House District 65	61,053
-------------------	--------

- 4.76%
of 64,102

9.74%

Population variance: The largest difference in districts was 4.98% over the ideal population and 4.76% under the ideal population.

Maximum deviation: The range between the districts most over and under the ideal population was 9.74%.

Tennessee Requirements

Some requirements for redistricting are mandated by federal law, but other decisions are **left to the states**. That means the process for drawing new districts **varies across the country**.

In Tennessee, the state constitution and state law include additional redistricting requirements. Federal and state court decisions provide further guidance about how districts should be drawn.

State Constitution

Article 2 of Tennessee’s Constitution requires that legislative districts are **based on population**; that counties within a district must be **contiguous** (adjoining at least one other county in the district); and that counties shall **not be divided**.

State Law

State law further articulates that congressional districts must be contiguous; Senate districts may not contain split precincts and House districts must be substantially equal in population and represented by a single member. Whereas the state constitution says that counties shall not be divided, state law allows the House to split no more than **30 counties** to form multi-county districts.(vi)

Court Rulings

Federal and state court rulings **cap** the number of counties that can be split into different legislative districts and require legislators to **justify** the creation of districts that are substantially bigger or smaller than they should be.

Counties may be split into multiple districts.

The Tennessee Supreme Court recognized that to ensure equal protection and to incorporate nearly equal populations into districts, all counties -- which vary in population size -- would not be able to remain whole as required by the state constitution. The court ruled that **counties may be divided**, but it **capped** the allowable number of split counties at 30.(vii)



For example, Dickson County is "split" into two House Districts, 69 and 78.

Maps with a population variance of more than 10% require justification.

As noted above, state legislative districts are required to be only "**substantially equal**" in population, rather than "as equal as possible" like at the federal level. Court rulings have determined that a 10% variation in district populations is the highest acceptable level unless the state can justify the variance.(viii) A map with a variation of less than 10%, however, is not automatically considered constitutional.

Additional Redistricting Considerations

Across the country, mapmakers may consider additional guidelines when drawing legislative districts. Some states include these more formally into redistricting guidelines or laws.(ix)



Compactness and Contiguity: When achieving the ideal population requires districts to include more than one county, compactness and contiguity guidelines keep them from sprawling across large areas. Counties that are contiguous -- that share a common border, by land or water -- can be included in the same district.



Communities of Interest: Mapmakers also may consider a community's racial, ethnic, social, cultural or economic similarities when drawing districts. Keeping these "communities of interest" together helps maintain a community's legislative representation and its ability to advocate for shared policies.



Political Boundaries: When drawing districts, mapmakers try to adhere to the political boundaries -- county and city lines -- to the extent possible. While districts may need to include multiple counties, this guideline helps minimize the number of splits within a county.



Avoiding Pairing Incumbents: To the extent practicable, mapmakers may draw districts in a way that avoids putting two incumbent representatives in the same new district, thereby making them compete against each other for re-election.

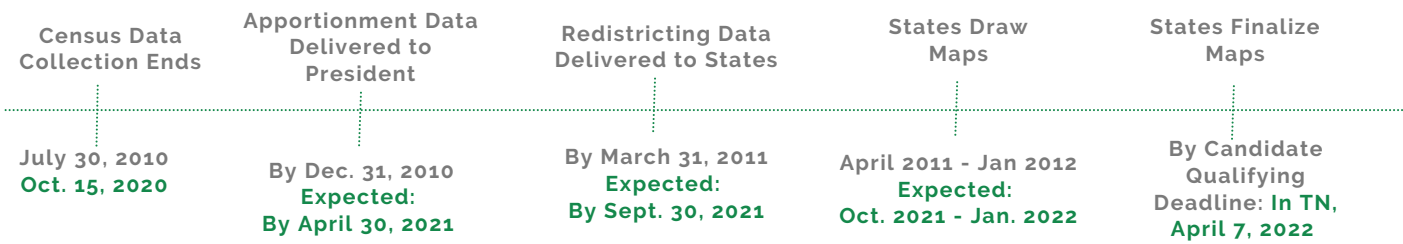
Redistricting Timeline

In a typical census year (a year ending in "0"), data is delivered to the president by **December 31**. This data informs "**reapportionment**," the process of redistributing the 435 seats in the U.S. House of Representatives based on population changes. Once a state knows how many congressional districts it will have, it can begin the redistricting process, through which it will ensure that each district has roughly the same number of people.

State-level redistricting data is typically provided to states by **March 31** the following year (a year ending in "1"). States use that data to finalize maps in time for the **candidate-qualifying deadlines** in the next related election. This typically takes place by the next spring, if not earlier.

Like so much else, however, the census timeline has been impacted by the Covid-19 pandemic. States may not receive the data until **September 30, 2021**, which throws redistricting timelines into flux.(x) With Tennessee's state and federal legislative candidate qualifying deadline in **April 2022**, this cycle's redistricting timeline will be **condensed**.

The Pandemic's Anticipated Impact on Redistricting Timelines



Conclusion

In Part Two of this series, we take a closer look at how the redistricting process worked in Tennessee during the 2011-2012 cycle.

Notes and References

- (i) 2 U.S.C. § 2c (2018).
- (ii) Reynolds v. Sims, 377 U.S. 533 (1964) and Baker v. Carr, 369 U.S. 186 (1962).
- (iii) Shaw v. Reno, 509 U.S. 630 (1993).
- (iv) Tennessee General Assembly, House Ad Hoc Committee on Redistricting. (June 16, 2011). General Redistricting Information.
- (v) Tennessee General Assembly. (January 13, 2012). Population Summary Report.
- (vi) Tenn. Code Ann. §§ 2-16-103, 3-1-102, 3-1-103.
- (vii) Lockert v. Crowell, 631 S.W.2d 702 (Tenn.1982).
- (viii) Moore v. State, 578 S.W.2d 78 (Tenn.1972). Gaffney v. Cummings, 412 U.S. 735 (1973).
- (ix) National Conference of State Legislatures. (April 23, 2019). Redistricting Criteria. See <https://www.ncsl.org/research/redistricting/redistricting-criteria.aspx>.
- (x) U.S. Census Bureau. (February 12, 2021). Census Bureau Statement on Redistricting Data Timeline. See <https://www.census.gov/newsroom/press-releases/2021/statement-redistricting-data-timeline.html>.