



January 7, 2022

To: City of Merced Advisory Redistricting Commission
cityclerk@cityofmerced.org

Transmitted via electronic mail

City Clerk's Office
678 West 18th St., 1st Floor
Merced, CA 95340

Re: Redistricting Process Requirements

Dear City of Merced Advisory Redistricting Commission and City Council,

Communities for a New California Education Fund, California Common Cause, and Power California write to the City of Merced Advisory Redistricting Commission (“Advisory Commission”) and Merced City Council (“City Council”) because we advocate for redistricting processes that prioritize community voices, build public trust, and result in maps that allow for fair representation over the next decade. To that end, we highlight below certain legal requirements and best practices pertaining to redistricting that we feel are important to clarify for the Advisory Commission and City Council.

Federal and State laws combine to provide detailed, ranked redistricting criteria that the Advisory Commission is required to abide by when drawing and selecting its draft map recommendations for the City Council to consider. The final map must accord with the following:

1. The final map must have districts that are substantially equal in population.¹
2. The final map must comply with Section 2 of the federal Voting Rights Act (“VRA”).²
3. The City must follow the required redistricting criteria laid out in the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (“FAIR MAPS”) Act in this order of priority: contiguity; keep neighborhoods and communities of interest within the city whole; follow natural and artificial boundaries; and compactness.³

¹Cal. Elec. Code §§ 21608(d)(1)–(2).

²*Id.* § 21601(b); 52 U.S.C. § 10301.

³*Id.* § 21601(c).

4. The City may not adopt a map that favors or discriminates against a political party⁴ and cannot consider relationships with political parties, incumbents, or political candidates when assessing communities of interest.⁵

We are writing to express specific concern regarding the City of Merced complying with criteria number four within its current redistricting process. The City's redistricting consultant National Demographics Corporation ("NDC") routinely provides its client jurisdictions with a uniform presentation that includes concerning language regarding "other traditional redistricting principles," such as "continuity in office" and "[p]reserving the core of existing districts."⁶ We fear the materials provided to you do not adequately indicate the extremely limited function of these "other traditional redistricting principles" and the last-place nature of their role.

As should be clear, Federal and State law's criteria, which must be complied with comprehensively and in ranked order, do not make any mention of these "other traditional redistricting principles." In fact, the FAIR MAPS Act instead explicitly prohibits the City from adopting a map "for the purpose of favoring or discriminating against a political party"⁷ and makes clear that "[c]ommunities of interest do not include relationships with political parties, incumbents, or political candidates."⁸ This is for good reason -- the spirit of the FAIR MAPS Act, which California Common Cause sponsored, was to create redistricting processes that are guided by the public and their input and that center fair representation for communities. The "other traditional redistricting principles" listed by NDC serve principally to make reelection easier for incumbents. Prioritizing keeping incumbent officeholders in power is a symptom of the gerrymandering we see in other states and is something California has attempted to leave behind, through the creation of an independent citizen-run redistricting process at the State level and through the passage of the FAIR MAPS Act.

Should the Advisory Commission and City Council choose to consider "continuity in office" and "[p]reserving the core of existing districts," it may do so only after every single Federal and State law criteria is satisfied. If any choice to prioritize "continuity in office" and "[p]reserving the core of existing districts" imperils or jeopardizes any criteria explicitly mentioned by Federal or State law, that choice must be rejected. That may result in a City Council map that looks significantly different from the existing map, which was drawn before the

⁴*Id.* § 21601(d).

⁵*Id.* § 21601(c)(2).

⁶See City of Merced Redistricting Advisory Commission Hearing on December 1, 2021, Agenda Item F1 at 22:56 - 23:01 at http://cityofmerced.granicus.com/MediaPlayer.php?view_id=1&clip_id=491 "The column on the left [Federal laws], non-negotiable; the column in the middle [California Criteria for Cities], non-negotiable. If you can accomplish the task in those two columns, then you can consider some of the other traditional redistricting principle[s]." See also *Id.* Presentation by Dr. Jeff Tilton displays slide 3 at 20:14 - 22:07 containing language, "Preserving the core of existing districts," "Continuity in office," and "future population growth." See also *Id.* Presentation materials, Powerpoint Slide 3 at <https://cityofmerced.legistar.com/View.ashx?M=F&ID=10297080&GUID=2E16CAA6-CB87-4BE8-AD09-67554A4DB5FD>.

⁷Cal. Elec. Code § 21601(d).

⁸*Id.* § 21601(c)(2).

FAIR MAPS Act was passed, in an era when protecting incumbents was permitted and indeed often the main point of redistricting. That era is over in California.

Redistricting is a once-in-a-decade process with generational consequences. State law has created a direct avenue for a community-driven process that prioritizes the needs of constituents and not those of politicians, and we urge the City to extend its greatest efforts to ensure an equitable and representative process and result.

Sincerely,

California Common Cause

Communities for a New California Education Fund

Power California