

Legal & Policy Criteria Governing Establishment of Trustee Areas

A Presentation by:

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to the

Cajon Valley Union School District

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Process for Changing Electoral System to Adopt “By-Trustee Area” Elections

California Elec. Code § 10010

- The Elections Code requires that at least five public hearings be held before a trustee area system can be adopted:
 - Two initial hearings, no more than 30 days apart, to receive public input. These hearings must take place before any draft maps are drawn.
 - Two additional informational hearings to receive public input on proposed maps. Must take place within a period of 45 days, and cannot commence until draft maps have been published for at least seven days.
 - A final hearing, after which the jurisdiction can vote to adopt a map.
 - If a map is revised at or following a hearing, it shall be published and made available to the public for at least seven days before being adopted.

Process for Changing Electoral System

- County Committee has sole authority to change a school district's electoral system.
- County Committees generally work in collaboration with School District.
- Voters must approve the change.
 - The State Board of Education can approve a waiver of the election requirement.

Process: Proposed Timeline

Activity	Timing
First Public Hearing on Composition of Districts – no maps	September 12, 2017
Second Public Hearing on Composition of Districts – no maps (w/i 30 days of first)	September 26, 2017
Draft Maps and Election Rotation Published (at least 7 days prior to next round of public hearings)	October 10, 2017
First Public Hearing on Proposed Maps & Election Rotation	October 24, 2017
Second Public Hearing on Proposed Maps & Election Rotation (w/i 45 days of first)	November 14, 2017
Final Public Hearing re Maps, Election Rotation, and Waiver Request; Consideration of Ordinance to Adopt Map & Resolution to Make Waiver Request – submit map to County Committee & waiver request to State Board of Education	December 14, 2017
County Committee Hearing(s)	January – March 2018
Board of Education to Consider Waiver Request	By July 9, 2018
Trustee Areas Implemented	November 2018/2020

Process: Election Rotation

- To be proposed in connection with maps and set by final ordinance.
- Rotates in over two election cycles.
- No trustee's term cut short (*see* Educ. Code § 5021(a)), but
- When his or her term ends, an incumbent can only run from the new trustee in which he or she resides, assuming it is up for election,

Legal Considerations Governing Districting

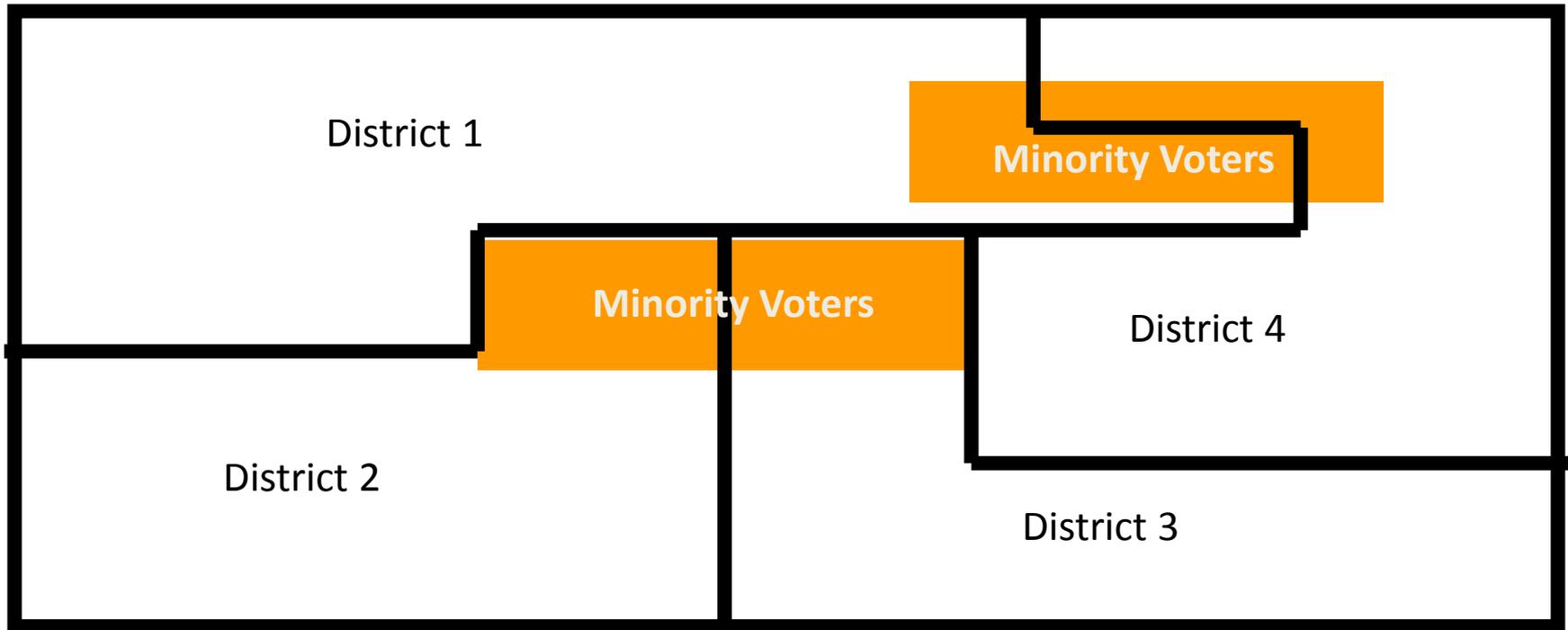
Drawing the Lines—Legal Considerations: Population Equality

- Overriding criterion is total population equality (*see Reynolds v. Sims*, 377 U.S. 533 (1964); Elec. Code § 22000).
- Unlike congressional districts, local electoral districts do not require perfect equality—some deviation acceptable to serve valid governmental interests.
- Total deviation less than 10% presumptively constitutional. (Caution: the presumption *can* be overcome!)
 - Total School District Population (2010 Census): 160,974
 - Ideal Trustee Area Size: 32,195
- Redistricting in 2021.

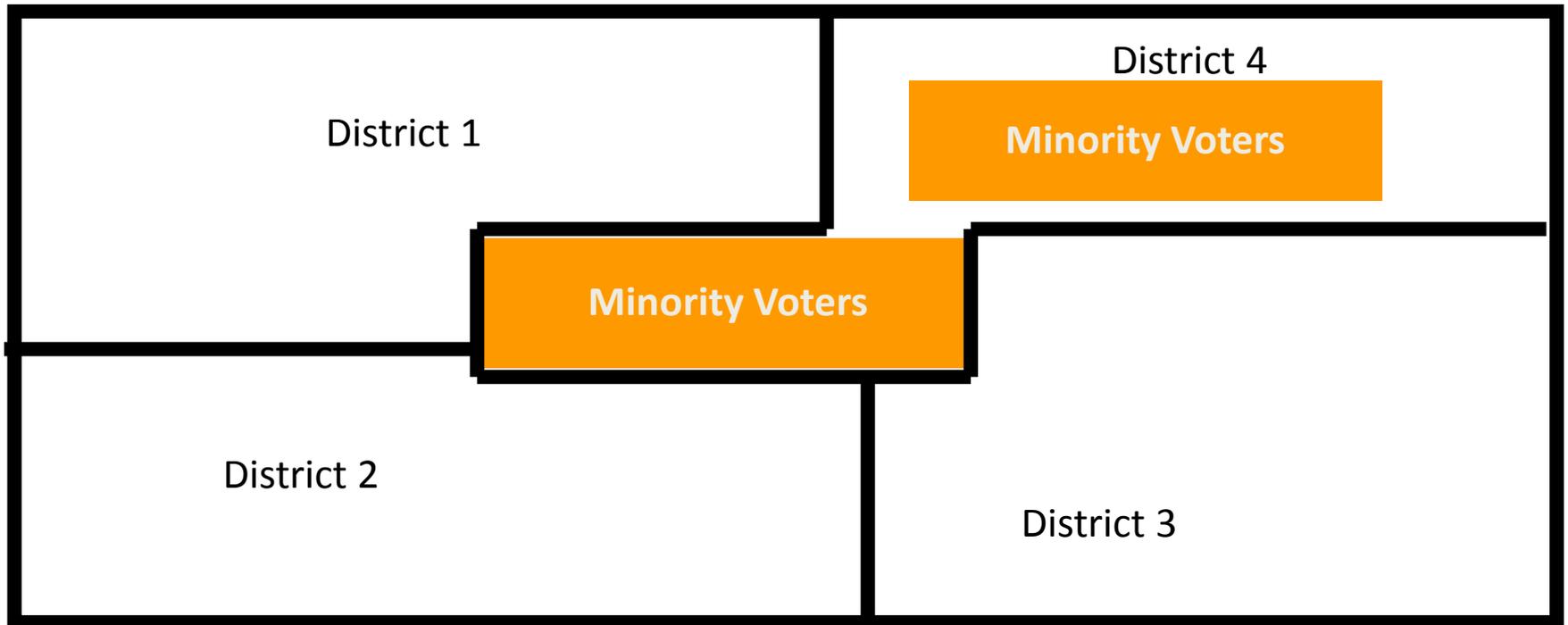
Drawing the Lines—Legal Considerations: Federal VRA

- Section 2 of the federal Voting Rights Act prohibits electoral systems (including district plans), which dilute racial and language minority voting rights by denying them an equal opportunity to nominate and elect candidates of their choice.
- “Language minorities” are specifically defined in federal law: to mean persons of American Indian, Asian American, Alaskan Natives or Spanish heritage. CVRA expressly adopts the definition of “language minority.”
- Creation of minority districts required only if the minority group can form the majority in a single member district that otherwise complies with the law. *Bartlett v. Strickland*, 556 U.S. 1 (2009).
 - Almost certainly not possible here.
- California Voting Rights Act is silent with respect to the shape of electoral districts, so long as they are used.

Voting Rights Act: Cracking



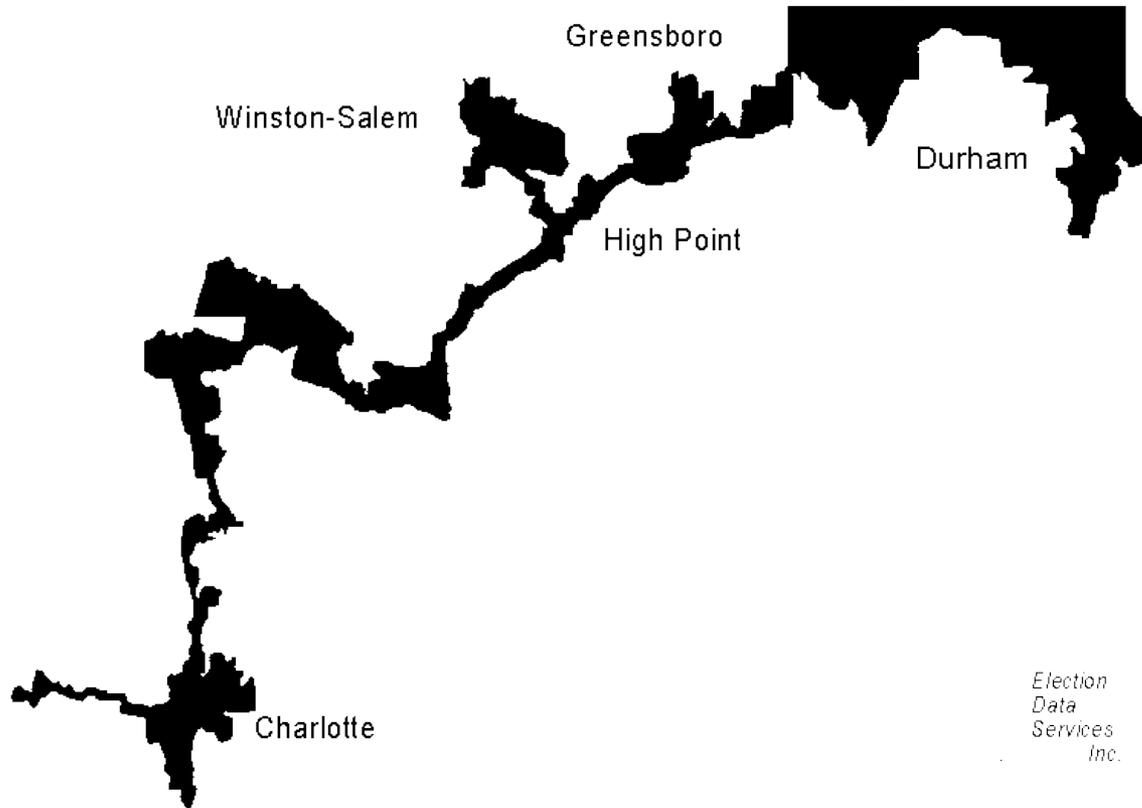
Voting Rights Act: Packing



Drawing the Lines—Legal Considerations: No Gerrymandering

- The Fourteenth Amendment restricts the use of race as the “predominant” criterion in drawing districts and the subordination of other considerations. *Shaw v. Reno*, 509 U.S. 630 (1993); *Miller v. Johnson*, 515 U.S. 900 (1995).
- Looks matter! Bizarrely shaped electoral districts can be evidence that racial considerations predominate. (See next slide, NC CD 12 stretched 160 miles across the central part of the State, for part of its length no wider than the freeway right-of-way.)
- But bizarre shape is not required for racial considerations to “predominate.”
- Fourteenth Amendment does not, however, prohibit all consideration of race in redistricting. *Easley v. Cromartie*, 532 U.S. 234 (2001).
- **Focus on communities of interest.**

Drawing the Lines—Legal Considerations: No Gerrymandering



Legal Considerations: Other Permissible Criteria

- Topography.
- Geography.
- Cohesiveness, contiguity, compactness and integrity of territory.
- Communities of interest.

See Elec. Code § 22000; Educ. Code § 1002.

Legal Considerations: Other Criteria Approved by Courts

- Preventing head-to-head contests between incumbents, to the extent reasonably possible.
- Respecting the boundaries of political subdivisions (*e.g.*, school attendance areas, city boundaries, etc.).
- Use of whole census geography (*e.g.*, census blocks).
- Other non-discriminatory, evenly applied criteria (*e.g.*, location of school facilities, planned development).
- Political considerations are inevitable.

Questions?