



August 23, 2021

Sent Via Email

Kern County Board of Supervisors
1115 Truxtun Avenue
Bakersfield, CA 93301
board@kerncounty.com

**Re: Public Comment on the Board of Supervisors Redistricting Process
August 24, 2021, Board of Supervisors Meeting**

Dear Members of the Board of Supervisors:

The Dolores Huerta Foundation (DHF) and the American Civil Liberties Union of Southern California (ACLU) write regarding the redrawing of Kern County's supervisorial district map. We urge the Board to schedule additional redistricting workshops ahead of the release of draft maps and get rid of the requirement that the public complete an online form to provide input at workshops and hearings. We also write to remind the Board of legal requirements, including the prohibition against political gerrymandering and the need for the Board to comply with the Voting Rights Act (VRA). Finally, we have attached as **Exhibit A** a two-page document with recommendations on best practices for outreach and education.

Scheduling Public Hearings and Workshops

AB 849 and AB 1276, or the Fair Maps Act,¹ provide detailed requirements that the County must follow before adopting a final map. The Act recognizes that to draw equitable maps line drawers must collect detailed testimony about communities of interest from as many residents as possible.² Although the County already held three workshops in July, the workshops were not very well attended and two of the workshops did not provide in-person options. We thus request that the County schedule additional workshops in September and October. This will help ensure that more members of the public learn about the redistricting process and provide community of interest testimony before the County releases draft maps. The public should have the option to attend the meetings and provide input via video or in person. The County should also hold the workshops at different times and days of the week to accommodate varying schedules and should hold workshops across the County to ensure that those residents who want or need to attend in person can access hearing locations. Importantly, the County will need to work with local media and community-based organizations to publicize these workshops.³

¹ The county provisions of the Fair Maps Act are codified in sections 21500 to 21509 of the Elections Code.

² See, e.g., Cal. Elec. Code § 21508(a) (requiring the Board to "take steps to encourage residents . . . to participate in the redistricting public review process").

³ See Cal. Elec. Code § 21508(a)(1)-(2).

Community Input

Currently, individuals who wish to provide input at redistricting hearings and workshops must submit an online request form.⁴ We urge you to get rid of the request form, both because it runs afoul of the Ralph M. Brown Act and because it will discourage public participation. The Brown Act requires “an opportunity for members of the public to directly address” the Board⁵ and prohibits the County from requiring the public, as a condition of attendance, to register their name, provide other information, or complete a questionnaire.⁶ While legislative bodies may impose reasonable regulations on public comment, they may only adopt such regulations for the purpose of ensuring that all members of the public who wish to speak are able to speak.⁷ If the County is using completed request forms for planning purposes, we urge you to at a minimum make clear that the form is optional. To do otherwise adds an unnecessary hurdle to public participation in the redistricting process.

Draft Maps

The County must post draft maps online for at least seven days before it selects a final map.⁸ This timeline is reduced to three days in the last 27 days before the County’s deadline.⁹ We request that the County strive to give the public more than seven days to evaluate draft maps and provide feedback, and, more importantly, request that you post all draft maps considered at *any* public hearing or workshop well ahead of the hearing. Community members need a meaningful opportunity to digest maps, identify recommendations, and develop alternative maps.

Map Requirements

The County must keep in mind the following redistricting requirements when drafting maps and considering draft maps:

1. The final map must have districts that are substantially equal in population.¹⁰
2. The final map must comply with Section 2 of the VRA.¹¹
3. The County must follow traditional redistricting principles, including those laid out in the Fair Maps Act. In particular, the County must use the following redistricting principles in this order of priority: contiguity; maintain neighborhoods and communities of interest; respect cities and census designated places; follow natural and artificial boundaries; and compactness.¹²

⁴ Kern County 2021 Redistricting – Request to Speak at a Public Meeting, <https://www.kerncounty.com/government/2021-redistricting/2021-redistricting-english/2021-redistricting-request-to-speak-at-public-hearing> (last accessed Aug. 23, 2021).

⁵ Cal. Gov’t Code § 54954.3(a); *see also Galbiso v. Orosi Pub. Util. Dist.*, 167 Cal. App. 4th 1063, 1079-80 (2008) (holding that a local agency violates the Brown Act by prohibiting a person from speaking during the public comment period).

⁶ Cal. Gov’t Code § 54953.3.

⁷ Cal. Gov’t Code § 54954.3(b)(1) (permitting limits on public comment “to ensure that the intent of [Section 54954.3(a)] is carried out”); Cal. Gov’t Code § 54954.3(a) (requiring that every agenda provide an opportunity for the public to directly address the legislative body).

⁸ Cal. Elec. Code § 21508(d)(1).

⁹ Cal. Elec. Code § 21508(d)(1).

¹⁰ Cal. Elec. Code § 21500(a).

¹¹ 52 U.S.C. 10301; Cal. Elec. Code § 21500(b).

¹² Cal. Elec. Code § 21500(c).

4. The County may not adopt a map that favors or discriminates against a political party¹³ and cannot consider relationships with political parties, incumbents, or political candidates when assessing communities of interest.¹⁴

A federal court held only a few years ago that the Board's 2011 supervisorial district map diluted the voting strength of Latino voters in the County.¹⁵ The Board cannot again violate the VRA. Any map you adopt will need to include districts that truly capture cohesive communities of interest and give Latino voters effective opportunities to elect candidates of their choice. To ensure that the Board complies with the VRA, you will need to receive extensive public testimony on communities of interest and have consultants conduct demographic and statistical analyses. This further highlights the need for the County to schedule additional workshops in the coming weeks.

* * *

This cycle, there are many organizations, including DHF, that are engaging the public and monitoring the County's redistricting process. Further, many organizations, including the ACLU, are prioritizing redistricting and, if necessary, redistricting litigation. We urge you to do what is right, continue to plan and execute a redistricting process that is inclusive of all communities, and adopt a map that is representative of the County and complies with federal and state law.

We look forward to working with you to make this a fair, open, and transparent process that inspires public trust in local government.

Sincerely,

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& Government Relations
Dolores Huerta Foundation

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Julia A. Gomez
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¹³ Cal. Elec. Code § 21500(d).

¹⁴ Cal. Elec. Code § 21500(c)(2).

¹⁵ *Luna v. County of Kern*, 291 F. Supp. 3d 1088, 1144 (E.D. Cal. 2018).

Exhibit A

Engaging Your Constituents in the LOCAL REDISTRICTING PROCESS

This year your jurisdiction will begin the process of redrawing district lines ahead of the 2022 elections. State law mandates that counties and cities conduct robust public education and outreach. The following are best practices to help facilitate the community engagement process.

ENCOURAGING CONSTITUENT PARTICIPATION IN THE REDISTRICTING PROCESS*

Your jurisdiction is tasked with encouraging residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting process.ⁱ To do this, you must conduct public outreach to local media organizations, good government, civil rights, civic engagement, and community groups or organizations that are active in your jurisdiction, including those serving different language communities, the disability community, and other historically underrepresented communities.ⁱⁱ

USE TARGETED RECRUITMENT STRATEGIES

- Partner with organizations that were involved with the 2020 Census count in your community, faith-based networks, and community organizations that work with different language communities.
- Reach out to other agencies and departments within your local government and ask them to share information with residents they come in contact with.
- Reach out to other jurisdictions redistricting in your geographical area to help educate and notify residents about getting involved.
- Use ethnic media to promote the opportunity within different language communities.
- Don't forget about youth! Reach out to high school leadership programs and youth-serving organizations to encourage them to get involved.
- Conduct outreach at virtual and in-person cultural events, community centers, schools, and places of worship.

CONSIDER DEDICATING A POINT PERSON FOR COMMUNITY OUTREACH

- Consider dedicating one or more staff members or consultants to be point people for outreach. The public should be able to contact them if they have questions about the redistricting process or have outreach and community education suggestions.

CREATING AND MAINTAINING A REDISTRICTING WEBPAGE*

Your jurisdiction must create a dedicated redistricting webpage.ⁱⁱⁱ The webpage must include an explanation of the redistricting process in all required languages.^{iv} It must also include or link to procedures for the public to testify during a hearing or submit written testimony; a calendar of all public hearings and workshop dates; the notice and agenda for each public hearing and workshop; a recording or written summary of each public hearing or workshop; draft maps; and the final adopted map. This webpage will be a critical source of information for your constituents.

TAKE ADVANTAGE OF RESOURCES CREATED BY THE SECRETARY OF STATE

- The Secretary of State created templates explaining the redistricting process and made it available in ten languages. You can find the templates [here](#).

ENSURE THAT TRANSLATED MATERIALS ARE EASY TO FIND

- Arrange your webpage so that translated materials are easy to find.
- Instead of listing available languages in English, list them in their respective language. For example, instead of listing “Spanish” list “Español.”

CREATE AND TRANSLATE ADDITIONAL MATERIALS

- Consider creating and translating additional helpful materials, such as the procedures for public testimony and submitting written testimony.

CREATE ENGLISH-LANGUAGE MATERIALS WITH AN EYE TOWARDS TRANSLATION

- Use plain English when creating materials so that they can be more easily translated.

CONSIDER PROVIDING TRANSLATION IN ADDITIONAL LANGUAGES

- Translate materials in additional languages, such as those covered by the state elections code, to better reach your constituents.

CREATING AN INCLUSIVE PUBLIC HEARING & PUBLIC INPUT PROCESS*

Before adopting a final map, your jurisdiction must hold at least four public hearings to receive input regarding line drawing.^v This includes at least one hearing before and at least two hearings after drawing your first draft map.^{vi} The fourth required hearing and additional hearings can be held before or after the draft map is drawn.^{vii}

PROVIDE ADDITIONAL OPPORTUNITIES FOR INPUT

- Your jurisdiction should strive to offer more than four hearings, advertise them widely, and make the hearings as accessible as possible.
- Hold hearings in different geographic areas to improve accessibility for all constituents.
- Make all public hearings, including in-person hearings, available over a video platform.
- Consider providing additional days than what is required for constituents to evaluate draft maps and provide feedback.
- Provide a public mapping tool to make the process more accessible.

BUILD TRANSPARENCY AND ACCOUNTABILITY INTO THE REDISTRICTING PROCESS

- Following each round of community input and feedback, consider posting all submitted testimony on your webpage, and if received in enough time, include the submitted public comment in the agenda packet for the hearing.

COORDINATE WITH OTHER JURISDICTIONS IN YOUR REGION

- Coordinate with other jurisdictions in your region about redistricting-related hearing and workshop dates to minimize conflicts.
- Avoid scheduling hearings that conflict with the California Citizens Redistricting Commission hearings in your region.

ENSURE LANGUAGE AND DISABILITY ACCESS

- Consider providing live interpretation and translation in all required languages regardless of whether an advance request was made.
- Include American Sign Language (ASL) interpretation and closed captioning for individuals who are Deaf or hard of hearing.

ⁱ Cal. Elec. Code § 21508(a) (counties); *id.* § 21608(a) (general law cities); *id.* § 21628(a) (charter cities).

ⁱⁱ Cal. Elec. Code § 21508(a)(1)-(2) (counties); *id.* § 21608(a)(1)-(2) (general law cities); *id.* § 21628(a)(1)-(2) (charter cities).

ⁱⁱⁱ Cal. Elec. Code § 21508(g) (counties); *id.* § 21608(g) (general law cities); *id.* § 21628(g) (charter cities).

^{iv} Cal. Elec. Code § 21508(g)-(h) (counties) (Required languages include “any language in which ballots are required to be provided in the county pursuant to Section 203 of the federal Voting Rights Act...”); *id.* § 21608(g)-(h) (general law cities); *id.* § 21628(g)-(h) (charter cities). Note, the Secretary of State’s Office will be releasing a list of required languages by city [here](#).

^v Cal. Elec. Code § 21507.1(a) (counties); *id.* § 21607.1(a) (general law cities); *id.* § 21627.1(a) (charter cities).

^{vi} Cal. Elec. Code § 21507.1(a)(1)-(2) (counties); *id.* § 21607.1(a)(1)-(2) (general law cities); *id.* § 21627.1(a)(1)-(2) (charter cities).

^{vii} *See, generally*, Cal. Elec. Code § 21507.1(a) (counties); *id.* § 21607.1(a) (general law cities); *id.* § 21627.1(a) (charter cities).

* For a complete set of legal requirements, please review the relevant code section.