



Northern
California

October 12, 2021

Sent via Email

Visalia City Council
c/o Michelle Nicholson
City of Visalia Chief Deputy City Clerk
220 N. Santa Fe St.
Visalia, CA 93292
cityclerk@visalia.city

**Re: Public Comment on the City Council Redistricting Process
October 13, 2021 Mapping Workshop**

Dear Members of the City Council:

The American Civil Liberties Union Foundation of Northern California (“ACLU”) writes regarding the City of Visalia’s ongoing redistricting process. We urge the City Council to strive to go well above minimum state and federal requirements for the redistricting process to maximize public participation, increase transparency, and draft a map that ensures fair representation for all City of Visalia communities.

I. Redistricting Process Requirements

AB 849 and AB 1276, or the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (FAIR MAPS) Act (hereinafter, the “Fair Maps Act”),¹ provide detailed requirements that the City Council must follow before adopting a final map. We commend the City Council for its efforts to plan and execute a redistricting process that is fair and transparent by, for example, retaining a redistricting consultant over the summer and building the groundwork to engage the public.² We have attached as **Exhibit A** a short document with best practices on public education and outreach and summarize legal requirements and provide suggestions below.

A. Redistricting Webpage

The Fair Map Act requires the City to create a webpage dedicated to redistricting.³ Although we appreciate that the City has a webpage dedicated to redistricting, there is room for improvement. For

¹ The charter city provisions of the Fair Maps Act are codified in sections 21620 to 21630 of the Elections Code.

² See City of Visalia Administration, Public Outreach Plan for City Council Redistricting 2021-22 on agenda for the September 20, 2021 City Council Meeting, <https://bit.ly/3mzqTLA>.

³ Cal. Elec. Code § 21628(g).

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example, the webpage currently provides a dropdown menu of different translations, including Spanish, but it is easy to miss in the bottom right of the webpage. We suggest making the dropdown menu more prominent, possibly by adding graphics to ensure that non-English speakers see that a translation is available. In addition, we note that the Secretary of State has already created templates in ten languages.⁴

The Fair Maps Act requires the redistricting webpage to include or link to the procedures for a member of the public to testify during a public hearing or workshop.⁵ This is because the Act recognizes that to draw equitable maps, line drawers must collect detailed testimony about communities of interest from as many residents as possible.⁶ Currently, the website provides little information on procedures for participating in public hearings and workshops, and the information that is available is confusing. For example, although the “How to Participate” section of the website’s landing page directs the public to “click here” for links to the calendar of public hearings and workshops and “for information on drawing and submitting maps,” those links are not live.⁷ Similarly, the “Schedule” section of the website directs the public to “click here” for “more details about attending and participating in City Council meetings,” but that link is not live either.⁸ Should a confused member of the public turn to the website’s FAQ page to find out “How can I get involved,” they will not find answers as the links for the calendar and information on drawing and submitting maps are not live either.⁹ And while the landing page promises to share “more details on the public process here,” it does not.¹⁰

The redistricting website is missing other required information as well. For example, although the Fair Maps Act requires the City to post or link to the agenda for each public hearing and workshop, the agendas for the August 23, 2021 initial public hearing and tomorrow’s (October 13, 2021) mapping workshop are either not posted or extremely difficult to find.¹¹ Similarly, while the City is required to post a “recording or written summary for each public hearing and workshop,” the recording or summary for the August 23, 2021 hearing is either not posted or extremely difficult to find.¹²

In addition, we understand that at times, the redistricting webpage has conveyed inaccurate information that inhibits public participation, including, for example, the wrong location of public hearings on redistricting. Conveying inaccurate information is inconsistent with the City’s obligations under the Fair Maps Act both to “encourage residents . . . to participate in the redistricting public review process” and to include on its redistricting webpage a calendar with the time and location of all public hearings and workshops.¹³ The City should have a fully functioning website that includes live links, agendas and recordings or summaries, and accurate information for future redistricting public hearings and workshops.

The website should also include more detailed information on the process for participation. For future hearings and workshops, the public needs to know if there is a process to provide comment in person and whether it is possible to provide comment via telephone or videoconference. With respect to the former, the website should flag any time limitations so that the public can prepare accordingly. With respect to the latter, we urge the City Council to allow members of the public to provide public comment

⁴ California Secretary of State, Templates, City and County Redistricting Process, <https://bit.ly/3Az3FtV> (last accessed Oct. 12, 2021).

⁵ Cal. Elec. Code § 21628(g)(2).

⁶ Cal. Elec. Code § 21628(a).

⁷ See How to Participate, The Redistricting Process, <https://bit.ly/3BoFyzi> (last accessed Oct. 12, 2021).

⁸ See Schedule, The Redistricting Process, <https://bit.ly/3BpcMhT> (last accessed Oct. 12, 2021).

⁹ See Questions?, The Redistricting Process, <https://bit.ly/3BoFyzi> (last accessed Oct. 12, 2021).

¹⁰ See FAQ, The Redistricting Process, <https://bit.ly/3lnCrC2> (last accessed Oct. 12, 2021).

¹¹ Cal. Elec. Code § 21628(g)(4).

¹² Cal. Elec. Code § 21628(g)(5).

¹³ Cal. Elec. Code §§ 21628 & 21628(g)(3).

in real-time via teleconference or telephone. It is our understanding that currently, people must either attend the hearings and workshops in person to give public comment or submit an email with public testimony.¹⁴ Limiting real-time comments to in-person attendees improperly interferes with public comment, which is fundamental to the redistricting process.

Nothing prohibits the City Council from providing alternative options for the public to provide public comment. In fact, the City Council runs the risk of violating Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 if it does not allow people to attend hearings and workshops and make public comment through telephone or videoconference. People with a wide variety of disabilities are at high risk of serious harm, including death, from COVID-19.¹⁵ As a result, people with disabilities that put them at greater risk for severe illness or death from COVID-19 do not have an equal opportunity as people without those same disabilities to attend and make comment at these local government meetings because in-person attendance poses a grave risk to their health. This denial of equal opportunity to attend and make real-time public comment violates the ADA and the Rehabilitation Act, which require that State and local governments give people with disabilities an equal opportunity to benefit from all of a local government's programs, services, and activities including local government meetings.

B. Education and Outreach

Reflecting the importance of public participation in the redistricting process, the Fair Maps Act mandates a thorough education and outreach program.¹⁶ Implementing a program that truly engages City of Visalia communities requires planning, staff time, and an allocation of sufficient monetary resources. While we appreciate the City Council's initial plans to engage the public,¹⁷ we urge the Council to expand these efforts. Although the City has held two public hearings, they were not well attended. At the September 20, 2021 City Council meeting—the City's second public hearing on redistricting—only one member of the public spoke; she noted that although her organization is striving to follow the redistricting process, they had not been aware of, and so missed, the City's first public hearing on redistricting.¹⁸ Indeed, as the City Manager acknowledged, no members of the public attended that initial meeting.¹⁹ This poor attendance suggests the City must increase its educational and outreach programs to ensure adequate public awareness and testimony about communities of interest. It also means the City has fallen short of its stated goal for the initial public hearings: to “educat[e] and to solicit input on the communities

¹⁴ See How to Participate, The Redistricting Process, <https://bit.ly/3BoFyzi> (last accessed Oct. 12, 2021) (“Submit written testimony about the process or a specific map to communityfeedback@visalia.city.”). We do not know whether the City Council will read email submissions into the record during meetings to ensure that other members of the public have an opportunity to hear those comments. We note that there do not appear to be any email submissions available on the City's redistricting webpage. Under the Fair Maps Act, the City must “either record or prepare a written summary of each public comment . . . made at every public hearing or workshop . . . within two weeks after the public hearing or workshop.” Cal. Elec. Code § 21628(f).

¹⁵ See Centers for Disease Control and Prevention (“CDC”), People with Certain Medical Conditions, <https://bit.ly/2ZXEa8X> (last updated Aug. 20, 2021).

¹⁶ Cal. Elec. Code § 21628(a).

¹⁷ See City of Visalia Administration, Public Outreach Plan for City Council Redistricting 2021-22 on agenda for the September 20, 2021 City Council Meeting, <https://bit.ly/3mzqTLA>.

¹⁸ See Sept. 20, 2021 Public Hearing Item No. 1, at 1:49:30–1:50:17, available at http://visalia.granicus.com/player/clip/66?view_id=1&meta_id=6156&redirect=true (member of the public explaining that although her group is trying to be involved in local redistricting efforts, “we missed” the August 23, 2021 meeting and asking how many members of the public attended that initial meeting).

¹⁹ *Id.*

in the districts.”²⁰ To ensure increased public participation at future hearings and workshops, the City should—as required by the Fair Maps Act²¹—work with community-based organizations in the region and local media, including those listed in the City’s public outreach plan.

As part of its educational and outreach efforts, we also recommend that the City set up a more accessible online form so that the public can subscribe easily to email updates.²² Finally, we encourage the City to partner with other districted jurisdictions in the region, including Tulare County and school and special districts that overlap with the City of Visalia, to educate and notify residents of opportunities to engage in redistricting. This will maximize resources, streamline information, and minimize confusion for residents.

C. Public Hearings and Workshops

Because the City is large and diverse, and in light of the poor attendance at the first two public hearings, the City Council should strive to offer far more than the minimum four hearings required by the Fair Maps Act.²³ For example, the City of Pasadena, which has about the same population as the City of Visalia, plans to host more than ten pre- and post-map public hearings and community meetings.²⁴ There is no reason why the City of Visalia cannot match or exceed that number so that the City Council has ample opportunities to hear from the public about their communities of interest and where the lines should be drawn. At least some of these additional meetings should occur before the City Council releases draft maps so that those initial maps incorporate and reflect testimony about communities of interest. To the extent increasing the number of public hearings seems infeasible in light of the City Council’s plan to select a final map by January 10, 2022, this deadline is self-imposed. Under the Fair Maps Act, the City must adopt a final district map by April 17, 2022.²⁵ The City Council need not, therefore, artificially compress the public’s opportunities to engage with the redistricting process or undermine its ability to draw equitable maps.

In addition, we urge the City Council to follow the lead of other line-drawing bodies throughout the State and allow sufficient time for public comment at future hearings and workshops. Orange County, for example, recently hosted a series of pre-map redistricting workshops.²⁶ County staff remained on site until they answered the public’s questions and heard from all members of the public who wanted to provide comment.²⁷ Staff heard testimony for about an hour and a half during at least one of the workshops.²⁸ The California Citizens Redistricting Commission similarly recognizes that receiving community of interest testimony from as many members of the public as possible is necessary for map drawing. They have been setting aside at least three hours for each regional public meeting, but do not

²⁰ See City of Visalia Administration, Public Outreach Plan for City Council Redistricting 2021-22 on agenda for the September 20, 2021 City Council Meeting, <https://bit.ly/3mzqTLA>.

²¹ Cal. Elec. Code §§ 21628(a)(1)–(2).

²² Currently, members of the public must contact the Communications Manager for the City in order “to be notified when information becomes available.” See Questions?, The Redistricting Process, <https://bit.ly/3BoFyzi> (last accessed Oct. 12, 2021).

²³ Cal. Elec. Code § 21627.1(a).

²⁴ See Pasadena City Redistricting Schedule, <https://bit.ly/3DD2ADx>.

²⁵ Cal. Elec. Code § 21622(b)(3).

²⁶ OC Clerk of the Board, General Timeline/Calendar, <https://bit.ly/3iVXmek> (last accessed Oct. 12, 2021).

²⁷ See, e.g., County of Orange, California, *Redistricting Community Workshop – District 4*, Facebook (Oct. 12, 2021), <https://fb.watch/7sXAwZPH46/>.

²⁸ See, e.g., County of Orange, California, *Redistricting Community Workshop – District 1*, Facebook (Oct. 12, 2021), <https://fb.watch/7sXhE1Ts4/>.

limit those meetings to just three hours. Instead, the meetings are over “upon the closing of business”—that is, when those members of the public who wish to speak have an opportunity to speak.²⁹

The City Council should also make future hearings and workshops as accessible as possible. As explained above, we urge the City Council to provide the public with both in-person and remote options to attend and participate in the hearings. In addition, we urge the City Council to schedule the hearings at different times and days of the week to accommodate varying schedules and to hold the hearings across the City to ensure that those residents who want or need to attend in person can access hearing locations.

D. Draft Maps

The City must post draft maps online for at least seven days before it selects a final map.³⁰ This timeline is reduced to three days in the last 27 days before the City’s map-adoption deadline.³¹ The City, however, should strive to give more than seven days to the community to evaluate draft maps and provide feedback and, more importantly, should post all draft maps considered at any public hearing or workshop well in advance. Especially because the City Council received no real-time public comments on communities of interest at the first two public hearings on redistricting, community members need a meaningful opportunity to digest draft maps, identify recommendations, and develop alternative maps.

II. City Council Map Requirements

When preparing its redistricting plan and drafting and considering draft maps, the City must keep in mind the following redistricting requirements:

1. The final map must have districts that are substantially equal in population.³²
2. The final map must comply with Section 2 of the Voting Rights Act of 1965 (“VRA”). This may require the City to include several majority-minority districts.³³
3. The City must follow the required redistricting criteria laid out in the Fair Maps Act in this order of priority: contiguity; maintain neighborhoods and communities of interest; follow natural and artificial boundaries; and compactness.³⁴
4. The City may not adopt a map that favors or discriminates against a political party³⁵ and cannot consider relationships with political parties, incumbents, or political candidates when assessing communities of interest.³⁶

Assessing VRA compliance and identifying communities of interest requires extensive public testimony, an understanding of historical discrimination in the City of Visalia, and demographic and statistical analyses. This further highlights the need for the City Council to schedule additional hearings and workshops in the coming weeks and to provide the public with sufficient time to comment at those hearings and workshops.

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²⁹ See, e.g., California Citizens Redistricting Commission, Communities of Interest (“COI”) Input Meeting for Zone F, <https://bit.ly/3xXJgxi> (public notice for Aug. 25, 2021 hearing for communities in Kern County).

³⁰ Cal. Elec. Code § 21628(d)(1).

³¹ *Id.*

³² Cal. Elec. Code § 21621(a).

³³ 52 U.S.C. § 10301; Cal. Elec. Code § 21621(b).

³⁴ Cal. Elec. Code § 21621(c).

³⁵ Cal. Elec. Code § 21621(d).

³⁶ Cal. Elec. Code § 21621(c)(2).

We encourage the City Council to improve its redistricting process by, among other things:

- ensuring the City has a functioning and informative redistricting webpage;
- working with the public and community-based organizations to develop a more robust and effective public outreach and education plan;
- scheduling more than four hearings and workshops across the City, at different times and days of the week to accommodate varying schedules, and with the option to participate either in-person or via remote method; and
- agreeing to provide the public with sufficient time for public comment and to evaluate any draft maps.

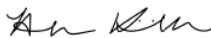
Finally, we implore the City Council to ensure a fair and transparent redistricting process that inspires public trust in local government. This cycle, there are many community-based organizations that are engaging the public and monitoring the City's redistricting process. Further, many organizations, like the ACLU Foundation of Northern California, are prioritizing redistricting and, if necessary, redistricting litigation. We commend the City Council for beginning to plan its redistricting process and 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 City of Visalia and complies with federal and state law.

We look forward to working with you to make this a fair, open, and transparent process.

Sincerely,



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Regional Organizing & Program Manager
ACLU Foundation of Northern California



Hannah Kieschnick
Staff Attorney
ACLU Foundation of Northern California

cc: Allison Mackey, City of Visalia Communications Manager, communityfeedback@visalia.city

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, 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 participating in the redistricting process 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 in all required languages; a calendar of all public hearings and workshop dates and locations; 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 them 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

- Create and translate additional materials, including the procedures for testifying during a public hearing 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} Your jurisdiction must make available to the public either a recording or written summary of each public comment and council deliberation made at each public hearing or workshop.^{viii}

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 and at different times to improve accessibility for all constituents.
- Make all public hearings and workshops, including in-person hearings and workshops, 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(s) 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.

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- 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).
- ^{viii} Cal. Elec. Code § 21508(f) (counties); *id.* § 21608(f) (general law cities); *id.* § 21628(f) (charter cities).

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