



Northern
California

October 19, 2021

Sent via Email

Dixon City Council
c/o Kristin M. Janisch
Interim Elected City Clerk
600 East A Street
Dixon, CA 95620-3697
Cityhall@cityofdixon.us

Re: Public Comment on the City Council Redistricting Process

Dear Members of the City Council:

The American Civil Liberties Union Foundation of Northern California (“ACLU”) writes regarding the City of Dixon’s redistricting process. We urge the City Council to go well above minimum state and federal requirements for the redistricting process to maximize public participation, increase transparency, and adopt a map that ensures fair representation for all Dixon communities. We highlight below certain procedural and substantive legal requirements and best practices regarding redistricting and attach as **Exhibit 1** a short document with additional recommendations on best practices for public outreach and education.

I. Redistricting Process Requirements

The Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (FAIR MAPS) Act (hereinafter, the “Fair Maps Act” or “Act”)¹ provides detailed procedural requirements that the City Council must follow before adopting a final district map by April 17, 2022.² Many of these requirements emphasize public education and outreach 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.³ Implementing a redistricting process that truly engages City of Dixon communities and complies with the Fair Maps Act requires planning, staff time, and an allocation of sufficient monetary resources. We commend

¹ The general law city provisions of the Fair Maps Act are codified in sections 21600 to 21609 of the California Elections Code.

² Cal. Elec. Code § 21601(a)(3).

³ See generally *id.* § 21608.

American Civil Liberties Foundation of Northern California

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the City Council for its initial efforts this summer to plan for the redistricting process by hiring a redistricting consultant.⁴ Since June 1, 2021, however, neither the City Council nor your redistricting consultant appears to have taken additional steps to execute a redistricting process that is lawful, fair, and transparent. In order to comply with the Fair Maps Act and ensure an adequate public review process, it is imperative that the City begin its redistricting process, and specifically its public outreach and education efforts, as soon possible. We summarize certain relevant legal requirements and provide additional suggestions below.

A. Redistricting Webpage

The City of Dixon must create a webpage dedicated to redistricting.⁵ The redistricting webpage is critical to ensuring adequate public participation in the redistricting process. In light of the City’s obligation to “encourage residents . . . to participate in the redistricting public review process,”⁶ we urge you to create this webpage as soon as possible.

The City’s redistricting webpage must explain the redistricting process and either explain or link to the procedures for members of the public to testify during public hearings or workshops on redistricting. The Fair Maps Act requires certain jurisdictions to translate these explanations into particular non-English languages based on demographics.⁷ Even when translations are not statutorily required,⁸ they are a key aspect of effective community education and outreach. Approximately 42% of Dixon residents are Latinx; 32% speak Spanish at home; and of Spanish-speaking Dixon residents, approximately 51% do not speak English “very well.”⁹ Accordingly, we urge you to provide Spanish translations of your redistricting materials.

The City’s information on how the public can participate in public hearings and workshops should be detailed. For example, the public needs to know if there are any time limitations on public comments, whether there is a specific process for providing comment in person, how to submit testimony or draft maps in writing and electronically, and whether it is possible to provide real-time comment via telephone or videoconference. With respect to the latter, we urge the City Council to allow members of the public to provide public comment both

⁴ See Item 12.6, Regular Meeting of the Dixon City Council Approved Minutes (June 1, 2021), <https://bit.ly/3aF3pik> (approving Resolution 21-123 authorizing City Manager to execute consulting services agreement with National Demographics Corporation (“NDC”) regarding redistricting City Council district boundaries).

⁵ Cal. Elec. Code § 21608(g).

⁶ *Id.* § 21608(a).

⁷ *Id.* §§ 21608(g)(1)–(2), (h). The California Secretary of State has already created redistricting templates in ten languages. See Cal. Sec’y of State, Templates, City and County Redistricting Process, <https://bit.ly/3Az3FtV> (last accessed Oct. 19, 2021).

⁸ See Cal. Sec’y of State, Language Requirements for City Redistricting, <https://bit.ly/2YNM9VN> (last accessed Oct. 19, 2021).

⁹ See U.S. Census Bureau, *2019 American Community Survey 5-Year Demographic and Housing Estimates for Dixon CCD, Solano County, California*, <https://bit.ly/2Xh4t4X> (last accessed Oct. 19, 2021); U.S. Census Bureau, *2019 American Community Survey 5-Year Language Spoken at Home Estimates for Dixon CCD, Solano County, California*, <https://bit.ly/3lMqVka> (last accessed Oct. 19, 2021).

in person and via live remote method. Limiting comment to in-person attendees both inhibits public participation and risks violating federal law.¹⁰

The redistricting webpage must contain other critical information as well. This includes a calendar of all public hearings and workshops dates and locations as well as the agenda for each.¹¹ In addition, the webpage must include a recording or written summary of each public hearing or workshop and each public comment.¹² Finally, and as explained in more detail below, the webpage must include both draft maps and the final adopted map.¹³

B. Education and Outreach

The Fair Maps Act mandates a thorough public education and outreach program.¹⁴ As noted above, the City is tasked with encouraging residents, including those in underrepresented and limited-English proficient communities, to participate in the redistricting process.¹⁵ To do this, the City must conduct public outreach about redistricting to local media organizations and to good government, civil rights, civic engagement, and community groups or organizations that are active in the jurisdiction, including those serving limited-English proficient communities, the disability community, and other historically underrepresented communities.¹⁶ Additionally, the City must provide information to those people and organizations that have requested to be notified about redistricting.¹⁷ Consistent with these requirements, we encourage the City to identify a city staff member for the public to contact with questions about the redistricting process and to set up an accessible online form so that the public can subscribe easily to redistricting email updates.

This once-in-a-decade process is a significant undertaking and we strongly urge the City Council to, as necessary, use general funds to support the robust, multilingual effort to seek community input contemplated and required by the Fair Maps Act. Finally, we encourage the City to partner with other districted jurisdictions in the region, including Solano County and school and special districts that overlap with the City of Dixon, to educate and notify residents of opportunities to engage in redistricting. This will maximize resources, streamline information, and minimize confusion for residents.

¹⁰ Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 require state and local governments to give people with disabilities an equal opportunity to benefit from all government programs, services, and activities, including government meetings. People with a wide variety of disabilities are at a high risk of serious harm, including death, from COVID-19. As a result, people with disabilities that put them at greater risk for severe illness or death from COVID-19 do not have as equal opportunities to 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.

¹¹ Cal. Elec. Code §§ 21608(g)(3)–(4); *id.* § 21608(c).

¹² *Id.* §§ 21608(f), 21608(g)(5).

¹³ *Id.* §§ 21608(g)(6)–(7).

¹⁴ *Id.* § 21608(a).

¹⁵ *Id.*

¹⁶ *Id.* §§ 21608(a)(1)–(2).

¹⁷ *Id.* § 21608(a)(2).

C. Public Hearings and Workshops

Before adopting a final map, the City must hold at least four public hearings to receive input on where lines should be drawn.¹⁸ Under the Act, the City must hold at least one hearing before and at least two hearings after drawing the first draft map.¹⁹ The City may hold the fourth hearing and any additional hearings before or after draft maps are drawn.²⁰ The Fair Maps Act contains more details on the accessibility, days and times, and the notice and agenda requirements for these hearings.²¹

Jurisdictions large and small across the state are offering far more than the legal minimum during this process,²² and we urge you to follow suit. The City needs ample opportunities to hear from the public about their communities of interest and where the lines should be drawn. This, in turn, will help the City draft and adopt a map that is equitable, fair, and lawful. Accordingly, we encourage you to begin engaging the public as soon as possible.

In addition, the City Council should follow the lead of other line-drawing bodies throughout the State and allow sufficient time for public comment at the hearings and workshops. Orange County, for example, recently hosted a series of pre-map redistricting workshops.²³ 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.²⁴ Staff heard testimony for about an hour and a half during at least one of the workshops.²⁵ 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 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.²⁶

¹⁸ *Id.* § 21607.1(a).

¹⁹ *Id.* § 21607.1(a)(1).

²⁰ *Id.* § 21607.1(a)(2).

²¹ *See generally id.* §§ 21607.1, 21608.

²² For example, the City of South Pasadena, which has a population of approximately 26,000, plans to host at least four public hearings and two public workshops. *See* City of South Pasadena, Redistricting Calendar, <https://bit.ly/3j2ncgp> (last accessed Oct. 19, 2021). The City of San Jose Redistricting Commission, which is drafting maps for the third largest city in the State, held 11 public hearings this fall and continues to hold weekly meetings. *See* City of San Jose, Redistricting 2020, <https://bit.ly/3oV4sDo> (last accessed Oct. 19, 2021).

²³ OC Clerk of the Board, General Timeline/Calendar, <https://bit.ly/3iVXmek> (last accessed Oct. 19, 2021).

²⁴ *See, e.g.,* County of Orange, California, *Redistricting Community Workshop – District 4*, Facebook (Aug. 11, 2021), <https://fb.watch/7sXAwZPH46/>.

²⁵ *See, e.g.,* County of Orange, California, *Redistricting Community Workshop – District 1*, Facebook (Aug. 4, 2021), <https://fb.watch/7sXhE1Tsq4/>.

²⁶ *See, e.g.,* California Citizens Redistricting Commission, Communities of Interest (“COI”) Input Meeting for Zone F, <https://bit.ly/3xXJgxi> (last accessed Oct. 19, 2021) (public notice for Aug. 25, 2021 hearing for communities in Kern County).

Finally, the City Council should 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 live remote options to attend and participate in the hearings. In addition, we recommend scheduling the hearings at different times and days of the week to accommodate varying schedules and holding 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

As noted above, the City must post draft maps, as well as related demographic information, on its redistricting webpage for at least seven days before it selects a final map.²⁷ This timeline is reduced to three days in the last 27 days before the deadline to adopt the final map.²⁸ We urge the City Council to give more than seven days to the community to evaluate draft maps and provide feedback and, more importantly, to post all draft maps considered at any public hearing or workshop well in advance. Community members will need a meaningful opportunity to digest draft maps, identify recommendations, and develop alternative maps.

II. City Council Map Requirements

In addition to the procedural requirements and best practices described above, the City Council must also keep in mind the following substantive requirements when preparing its redistricting plan and drafting and considering maps:

1. The final map must have districts that are substantially equal in population.²⁹
2. The final map must comply with Section 2 of the Voting Rights Act of 1965 (“VRA”). This may require the City to include majority-minority districts where Latinx voters have an opportunity to elect candidates of their choice.³⁰
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.³¹
4. The City may not adopt a map that favors or discriminates against a political party³² and cannot consider relationships with political parties, incumbents, or political candidates when assessing communities of interest.³³

Two of these requirements warrant further comment. First, the City Council—like all legislative bodies across the country—must comply with Section 2 of the VRA to ensure that the final district map does not dilute the voting power of any protected communities. In 2016, when the City transitioned to by-district elections and drew the existing map, 27% of the City’s citizen

²⁷ Cal. Elec. Code §§ 21608(d)(1)–(2).

²⁸ *Id.* § 21608(d)(1).

²⁹ *Id.* § 21601(a).

³⁰ *Id.* § 21601(b); 52 U.S.C. § 10301.

³¹ *Id.* § 21601(c).

³² *Id.* § 21601(d).

³³ *Id.* § 21601(c)(2).

voting age population (“CVAP”) was Latinx.³⁴ Although these demographics suggest the City could have drawn at least one of its four districts with greater than 50% Latinx CVAP, the City did not. Instead, the current map appears to split the City’s relatively compact Latinx population between districts.³⁵ Based on a review of more recent demographics, which reflect that the Latinx population has grown to be at least 30% of the City’s CVAP, it again appears possible to draw at least one district with greater than 50% Latinx CVAP.³⁶ It is incumbent on you to work closely with counsel and consultants to avoid potential VRA litigation and explore the need to create a Section 2 compliant district where Latinx voters have a real opportunity to elect candidates of choice.

Second, we must address comments made by the City Attorney that the existing district map for the Dixon City Council will remain “largely the same” or not “change a lot” except for minor population shifts this redistricting cycle.³⁷ These comments are concerning because only changing the districts at the margins to balance population prioritizes maintaining the core of existing districts over mandatory criteria in violation of federal law and the Fair Maps Act.

As a threshold matter, this approach would defeat the fundamental purpose of the redistricting process: to periodically redraw district boundaries to provide residents with fair representation. Equality of population is not important for its own sake. Rather, it serves the larger goal of decennial redistricting: “achieving fair and effective representation for all citizens.”³⁸ The purpose of periodic redistricting is to “maintain[] a reasonably current scheme of legislative representation” that reflects not just “population shifts and growths,” but also any changes over time in other demographic trends.³⁹

Line drawers use a series of tools in addition to equality of population to draft maps that “observe and advance neutral democratic values.”⁴⁰ The Fair Maps Act reflects the California Legislature’s determination of which tools and criteria best advance these values. We appreciate that the City recently drew its existing district map in 2016. But with the intervening passage of the Fair Maps Act, the City Council must redraw its lines under an entirely different legal scheme. In 2016, the City was only required to ensure equality of population and avoid vote

³⁴ See 2014 American Community Survey 5-Year Data; see also Agenda No. 9.2 at 9, Douglas Johnson & Douglas L. White, Summary Report, Regular Meeting of the Dixon City Council (May 24, 2016), <https://bit.ly/3j1gsze> (chart representing demographic information of Preferred Map A based on, among other things, 2010–14 American Community Survey 5-Year Data); Dixon, Cal. Ord. No. 16-007, (adopted June 14, 2016), <https://bit.ly/30sPI4t> (adopting Preferred Map A).

³⁵ See Agenda No. 9.2 at 9, Douglas Johnson & Douglas L. White, Summary Report, Regular Meeting of the Dixon City Council (May 24, 2016), <https://bit.ly/3j1gsze> (Latinx CVAP ranging from 19% in District 2 to 34% in District 4).

³⁶ See 2019 American Community Survey 5-Year Data.

³⁷ See Item 12.6 at 1:44:29–1:44:43, Regular Meeting of the Dixon City Council (June 1, 2021), <https://bit.ly/30pbh5X>.

³⁸ *Reynolds v. Sims*, 377 U.S. 533, 565–66 (1964); *id.* at 560–61 (noting that “the fundamental principle of representative government in this country” mandates “equal representation for equal numbers of people”).

³⁹ See *id.* at 583–84.

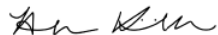
⁴⁰ See *Bethune-Hill v. Va. State Bd. of Elec.*, 141 F. Supp. 3d 505, 534–35 (E.D. Va. 2015), *affirmed in part, vacated in part*, 137 S. Ct. 788 (2017).

dilution under the VRA; it could place as much weight as it wanted on other redistricting principles. Now, in addition to maintaining substantially equal population and avoiding the potential vote dilution described above, the City must also follow the Fair Maps Act's mandatory ranked criteria in order of priority before turning to any other redistricting principles, such as preserving the core of existing districts.⁴¹ Prioritizing other redistricting criteria over the ranked criteria could risk violating the Fair Maps Act.⁴² And complying with this new legal scheme could require the City Council to adjust district lines more than merely rebalancing population would.

Consistent with the Fair Maps Act and the fundamental purpose of redistricting, we urge the City Council to start with a blank slate when drawing the district map. Engaging in a good faith effort to adopt a fair and equitable map that complies with federal and state law will require extensive public testimony, an understanding of historical discrimination in the City of Dixon, and demographic and statistical analyses. This only further highlights the need for the City Council to begin its redistricting process as soon as possible.

We look forward to working with you to make this a fair, open, and transparent process. If you have any questions, please feel free to contact us at hkieschnick@aclunc.org.

Sincerely,



Hannah Kieschnick
Staff Attorney
ACLU Foundation of Northern California

⁴¹ See generally Cal. Elec. Code § 21601.

⁴² The City's retained redistricting consultant, National Demographics Corporation ("NDC"), routinely provides its client jurisdictions with a set of standardized presentations and website templates that include concerning language regarding "other redistricting principles." When addressing redistricting criteria, these materials fail to distinguish between mandatory federal and state law requirements and what NDC terms "Other Traditional Redistricting Principles" and "Other Goals," such as "[p]reserving the core of existing districts" and "continuity in office." See, e.g., County of San Mateo District Lines Advisory Commission, *FAQ*, <https://bit.ly/3FR0IZB> (last accessed Oct. 19, 2021) ("What criteria will our Board of Supervisors use when drawing district lines?"); Kristen Parks, National Demographics Corp., *San Mateo County District Lines Advisory Commission: Introduction to Redistricting* at 5 (Aug. 25, 2021), <https://bit.ly/3j41hFO>. The Fair Maps Act's mandatory ranked criteria do not include these factors; instead, state law explicitly *prohibits* many of the practices that animate these "other goals." For example, the Fair Maps Act precludes the City Council from adopting a map "for the purpose of favoring or discriminating against a political party." Cal. Elec. Code § 21601(d). The Fair Maps Act is also clear that "[c]ommunities of interest do *not* include relationships with political parties, *incumbents*, or political candidates." *Id.* § 21601(c)(2) (emphasis added). We urge the City Council to do what is right, prioritize the mandatory criteria, and disregard NDC's "other goals," particularly because the Fair Maps Act and the VRA may require the City Council to adopt a dramatically different map.

EXHIBIT 1

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.*