



Northern  
California

February 8, 2022

*Sent via Email*

Coalinga City Council  
c/o Shannon Jensen  
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**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 Coalinga’s redistricting process. The Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (FAIR MAPS) Act (hereinafter, the “Fair Maps Act” or “Act”)<sup>1</sup> provides detailed procedural requirements that the City Council must follow before adopting a final district map by April 17, 2022.<sup>2</sup> The Act also sets forth substantive requirements for a final district map, including that it comply with the Voting Rights Act of 1965’s prohibition on vote dilution and follow five mandatory, ranked redistricting criteria like maintaining communities of interest.

As the City Attorney acknowledged at the January 6, 2022 City Council meeting, the City is “behind the curve” this redistricting cycle.<sup>3</sup> To ensure that the City Council engages in a legally adequate public review process and adopts a lawful final district map, it is imperative that you begin the redistricting process, and specifically your public outreach and education efforts, as soon as possible. We highlight below certain procedural and substantive legal requirements and best practices regarding redistricting.

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

<sup>2</sup> Elec. Code § 21601(a)(3).

<sup>3</sup> See Agenda Item 6.1 at 56:58–57:02, Regular City Council Meeting for the City of Coalinga (Jan. 6, 2022), <https://tinyurl.com/38uzh7pt>.

**American Civil Liberties Foundation of Northern California**

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## I. Redistricting Process Requirements

As explained above, the Fair Maps Act establishes specific procedural requirements that the City Council must follow before adopting a final district map by April 17, 2022.<sup>4</sup> 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.<sup>5</sup> Implementing a redistricting process that truly engages City of Coalinga communities and complies with the Fair Maps Act requires planning, staff time, and an allocation of sufficient monetary resources. While we recognize your recent decisions to go through the Fair Maps Act’s mandatory redistricting process and to retain a demographer to assist in that process, there is much work left to be done before April.

### A. Redistricting Webpage

The City of Coalinga must create a webpage dedicated to redistricting.<sup>6</sup> 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,”<sup>7</sup> and the posting requirements outlined below, 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 the public to comment 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.<sup>8</sup> Even when translations are not statutorily required,<sup>9</sup> they are a key aspect of effective community education and outreach. Approximately 60% of Coalinga residents are Latinx; 39.7% speak Spanish at home; and of Spanish-speaking Coalinga residents, 34.5% do not speak English “very well.”<sup>10</sup> 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

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<sup>4</sup> Elec. Code § 21601(a)(3).

<sup>5</sup> See generally *id.* § 21608.

<sup>6</sup> *Id.* § 21608(g).

<sup>7</sup> *Id.* § 21608(a).

<sup>8</sup> *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 Feb. 8, 2022).

<sup>9</sup> See Cal. Sec’y of State, Language Requirements for City Redistricting, <https://bit.ly/2YNM9VN> (last accessed Feb. 8, 2022).

<sup>10</sup> See U.S. Census Bureau, *2019 American Community Survey 5-Year Demographic and Housing Estimates for Coalinga CCD, Fresno County, California*, <https://tinyurl.com/ypuut4pb> (last accessed Feb. 8, 2022); U.S. Census Bureau, *2019 American Community Survey 5-Year Language Spoken at Home Estimates for Coalinga CCD, Fresno County, California*, <https://tinyurl.com/28swytxn> (last accessed Feb. 8, 2022).

possible to provide real-time comment via telephone or videoconference. With respect to the latter, we urge you allow members of the public to provide public comment both in person and via live remote method. Limiting comment to in-person attendees both inhibits public participation and risks violating federal law.<sup>11</sup>

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.<sup>12</sup> In addition, the webpage must include a recording or written summary of each public hearing or workshop and each public comment.<sup>13</sup> Finally, and as explained in more detail below, the webpage must include both draft maps and the final adopted map.<sup>14</sup>

## **B. Education and Outreach**

The Fair Maps Act mandates a thorough public education and outreach program.<sup>15</sup> 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.<sup>16</sup> 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.<sup>17</sup> Additionally, the City must provide information to those people and organizations that have asked to be notified about redistricting.<sup>18</sup> Consistent with these requirements, we encourage the City to identify a 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, and mandatory, undertaking. We strongly urge you to, as necessary, use general funds to support the robust, multilingual effort to seek community input contemplated and required by the Fair Maps Act.

## **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.<sup>19</sup> Under the Act, the City must hold at least one hearing

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<sup>11</sup> 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.

<sup>12</sup> Elec. Code §§ 21608(g)(3)–(4); *id.* § 21608(c).

<sup>13</sup> *Id.* §§ 21608(f), 21608(g)(5).

<sup>14</sup> *Id.* §§ 21608(g)(6)–(7).

<sup>15</sup> *Id.* § 21608(a).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* §§ 21608(a)(1)–(2).

<sup>18</sup> *Id.* § 21608(a)(2).

<sup>19</sup> *Id.* § 21607.1(a).

before and at least two hearings after drawing the first draft map.<sup>20</sup> The City may hold the fourth hearing and any additional hearings before or after draft maps are drawn.<sup>21</sup> The Fair Maps Act contains more details on the accessibility, days and times, and the notice and agenda requirements for these hearings.<sup>22</sup>

Jurisdictions large and small across the state have offered far more than the legal minimum during this process,<sup>23</sup> 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. In addition, we urge you to allow sufficient time for public comment during these hearings and workshops. Finally, to be meaningful, these hearings and workshops must be accessible. 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. These steps will help the City draft and adopt a map that is equitable, fair, and lawful. And, given the approaching April 2022 deadline, we encourage you to begin engaging the public as soon as possible.

#### **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.<sup>24</sup> This timeline is reduced to three days in the last 27 days before the deadline to adopt the final map.<sup>25</sup> We urge you 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—all of which will assist the City Council in adopting a final district map.

## **II. City Council Map Requirements**

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

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<sup>20</sup> *Id.* § 21607.1(a)(1).

<sup>21</sup> *Id.* § 21607.1(a)(2).

<sup>22</sup> *See generally id.* §§ 21607.1, 21608.

<sup>23</sup> 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 Feb. 8, 2022). The City of San Jose Redistricting Commission, which drafted maps for the third largest city in the State, held 11 public hearings and 15 virtual meetings. *See* City of San Jose, Redistricting 2020, <https://bit.ly/3oV4sDo> (last accessed Feb. 8, 2022).

<sup>24</sup> Elec. Code §§ 21608(d)(1)–(2).

<sup>25</sup> *Id.* § 21608(d)(1).

1. The final map must have districts that are substantially equal in population.<sup>26</sup>
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.<sup>27</sup>
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.<sup>28</sup>
4. The City may not adopt a map that favors or discriminates against a political party<sup>29</sup> and cannot consider relationships with political parties, incumbents, or political candidates when assessing communities of interest.<sup>30</sup>

We appreciate that the City recently drew its existing district map in 2018, when it transitioned from at-large to by-district elections. But with the intervening passage of the Fair Maps Act, the City must redraw its lines under a new legal scheme. Thus, an effort to simply readopt the same map with minor changes at the margins to balance population, without engaging with the Fair Maps Act’s mandatory criteria, risks both defeating the fundamental purpose of redistricting and violating state law.

The purpose of the redistricting process is to redraw district boundaries to provide residents with “fair and effective representation.”<sup>31</sup> Equality of population is not important for its own sake; rather, it serves this larger goal of fair representation. So does redistricting on a regular cycle because periodic redistricting helps “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.<sup>32</sup>

Line drawers use a series of tools in addition to equality of population to draft maps that “observe and advance neutral democratic values.”<sup>33</sup> The Fair Maps Act reflects the California Legislature’s determination of which tools and criteria best advance these values. In 2018, the City was required only to ensure equality of population and avoid vote 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 vote dilution, 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.<sup>34</sup> Prioritizing other

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<sup>26</sup> *Id.* § 21601(a).

<sup>27</sup> *Id.* § 21601(b); 52 U.S.C. § 10301.

<sup>28</sup> *Id.* § 21601(c).

<sup>29</sup> *Id.* § 21601(d).

<sup>30</sup> *Id.* § 21601(c)(2).

<sup>31</sup> *Reynolds v. Sims*, 377 U.S. 533, 565–66 (1964).

<sup>32</sup> *See id.* at 583–84.

<sup>33</sup> *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).

<sup>34</sup> *See generally* Elec. Code § 21601.

redistricting criteria over the ranked criteria could risk violating the Fair Maps Act.<sup>35</sup> And complying with this new legal scheme could require the City to adjust district lines more than merely rebalancing population would.

Consistent with the Fair Maps Act and the fundamental purpose of redistricting, we urge you 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 as well as demographic and statistical analyses. This only further highlights the need for the City 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](mailto:hkieschnick@aclunc.org).

Sincerely,



Hannah Kieschnick  
Staff Attorney  
ACLU Foundation of Northern California

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<sup>35</sup> Moreover, the Act explicitly prohibits many of the practices that animate goals like preserving the core of existing districts or continuity in office. For example, the Act precludes the City from adopting a map “for the purpose of favoring or discriminating against a political party. *Id.* § 21601(d). The 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).