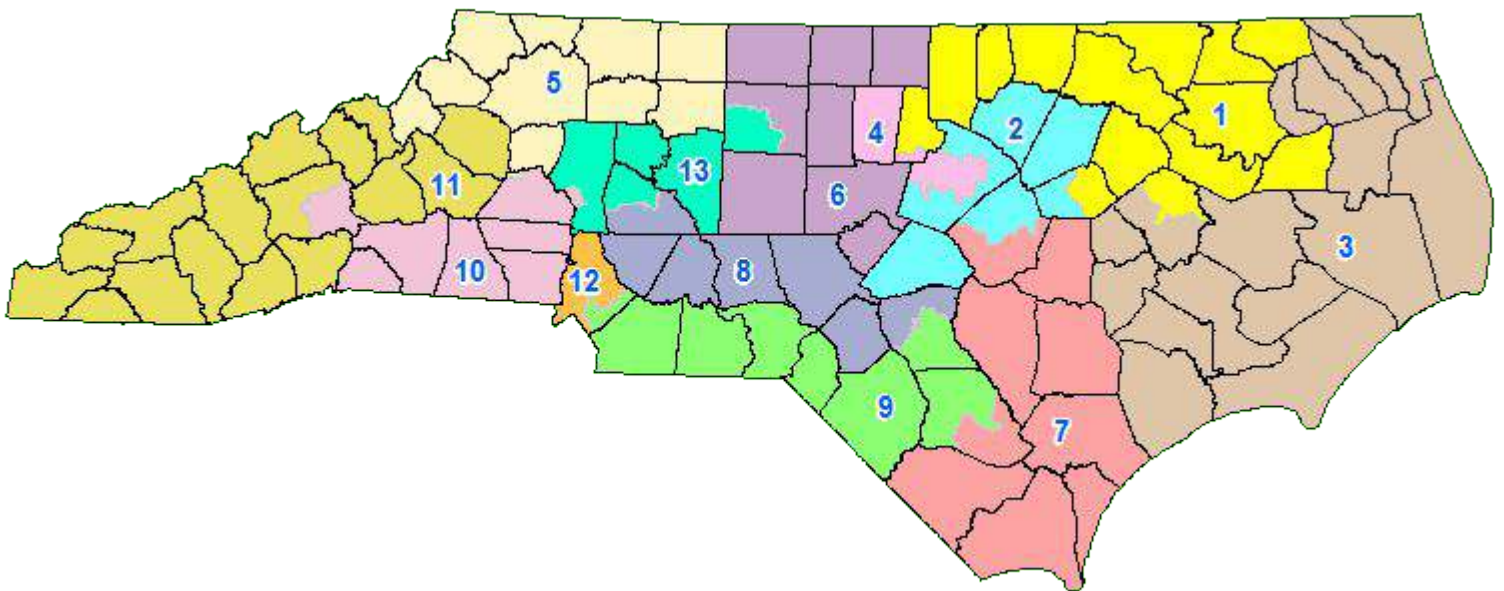


REDISTRICTING TOOLKIT



HOW TO USE THIS TOOLKIT

In a functioning democracy, elections should represent the will of the people. When politicians draw their own maps without oversight or clear rules, they can manipulate the system to keep themselves in power at our expense. We need to keep this story focused on what is best for us, the voters.

While politicians have been manipulating district lines for centuries, the advent of sophisticated mapping software, easily accessible demographic information, and a wealth of data siphoned from social media accounts has made targeting individual voters easy. To protect our democracy, the process of drawing voting maps should be fair and transparent, and use good data and consistent rules, so that our government is “of, by and for the people.” However, the last four election cycles in North Carolina have been under maps so extreme they have been deemed unconstitutional. This has increased voter cynicism substantially. If we don’t succeed in getting fair maps for the next ten year cycle after the 2020 census, an entire generation of voters will have been cheated.

When a politician is running in a “safe” district, he or she is bound to the demands of donors and trying to “out-do” a primary contender, rather than working to understand the needs of voters with differing views. In many cases there have been no general election opponents, since it’s not worth the time, money and effort to run against someone who is guaranteed a majority of the votes. This results in those with more extreme views edging out more moderate candidates, since only a small fraction of voters actually vote in primary elections.

Thanks to the massive increase in civic engagement after the 2016 election, North Carolina saw every legislative district contested for the first time in history. And yet, even though the blue wave managed to flip enough legislative seats to break the GOP supermajority hold, it failed to breach the gerrymandered wall in the 13 Congressional districts, where not one seat was touched (pending the outcome of the uncertified race in NC09).

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The impact of unfair maps affects us all. These are the same politicians who make critical statewide policy decisions, concerning everything from environmental protections to public education funding to Medicaid expansion to common sense gun reform to elections and voting laws. They determine judicial and criminal justice policies, tax rates, infrastructure investment, corporate regulations and penalties, and more. Judicial districts and school board districts aren’t immune to gerrymandering either. Almost every facet of your life in NC is touched by our elected officials, so shouldn’t we be the ones choosing who we want to represent us?

Change starts with you. Being willing to talk to your friends, neighbors and family about these issues is the most important action step you can make. Share this toolkit and its message broadly!

And follow us for more ways to engage:



WHAT IS REDISTRICTING?

Everyone in North Carolina lives in at least three different voting districts: US Congress, North Carolina State House and North Carolina State Senate. You can look up your own voting districts in NC at this [Board of Elections link](#), and also determine who represents you in North Carolina [here](#).

Every 10 years, US congressional districts are redrawn in connection with the US Census. US Congressional district changes are related to reapportionment, the process of shifting the number of congressional seats per state due to population changes. When they redraw the lines, it is called redistricting. Every state has its own laws about drawing voting district maps - it's not consistent across the country.

GERRYMANDERING

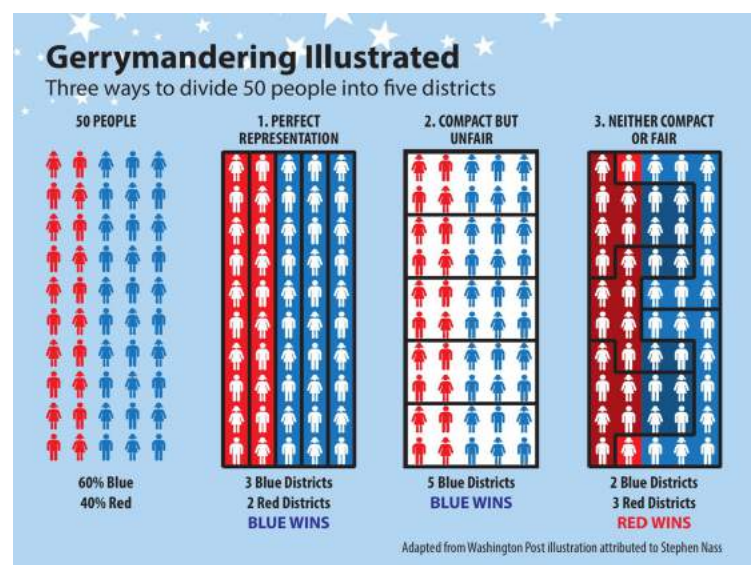
Gerrymandering is intentionally manipulating voting maps to create an advantage for a political party or group, and with “big data” and sophisticated software, this manipulation can be done very precisely.

Racial gerrymandering and partisan gerrymandering (basing voting districts on political party affiliation) have historically been treated differently by the courts – but the function of each is essentially the same: they are both tools used by politicians to manipulate the voting districts in such a way that it discriminates against one group of people in order to give an advantage to another group of people – and usually to the advantage of the politicians who draw the lines. Both types of gerrymandering are part of a job protection plan for politicians. Racial gerrymandering has been held unconstitutional, but the Supreme Court has not yet ruled on a standard for determining when partisan gerrymandering is unconstitutional.

HOW DOES GERRYMANDERING WORK?

Gerrymandering is accomplished by drawing the voting districts in a way that reduces the electoral power of the group disfavored by the mapmakers. One tactic is to break up a group of people into several voting districts so that they do not have a majority of votes in any district, sometimes called “cracking”. Another gerrymandering method is to “pack” a district full of members of a group, in order to create a number of surrounding “safe” districts – sometimes called “packing”.

The 2011 NC gerrymandered voting maps have examples of “packing.” In private meetings behind closed doors, two state legislators and a private consultant drew a few districts which were “packed” with a large percentage of African-American voters in order to “bleach” the surrounding districts and create more “safe” conservative seats.



For more information, see “[The Best Explanation of Gerrymandering You Will Ever See](#)” by Christopher Ingraham from *The Washington Post*.

REDISTRICTING LAW

Redistricting is governed by both federal and state law. Each state has its own laws that control how redistricting is done, and every state does it a little bit differently. North Carolina is one of a handful of states in which the state legislature can do almost whatever it wants, and the governor cannot veto the voting district maps. NC does not have any sort of independent commission involved with redistricting.

The various laws that relate to redistricting are too complex to explain fully here, but it is still helpful to know some of the laws that apply:

NC State Constitution: The primary NC law is Art. II of the [NC State Constitution](#), which gives the NCGA the authority to draw its own districts for the state house and state senate.

In order to amend the state constitution, 3/5 of the House and 3/5 of the Senate must vote in favor of the constitutional amendment, which then goes on the ballot for ratification by the voters. This is the amount of votes considered a “supermajority”.

The Equal Protection clause of the 14th Amendment to the US Constitution prohibits racial gerrymandering because it harms individuals based on racial classification.

“One Person, One Vote”: Constitutional principle based on Article I, Section 2 and the 14th Amendment which holds that each person's vote should count the same as every other person's vote. Under this principle each district within a jurisdiction should have the same or substantially the same population.

United States Constitution, First Amendment: Some partisan gerrymandering cases argue that partisan gerrymandering violates the First Amendment by burdening and retaliating against individuals who voted for a political party on the basis of their political beliefs (“viewpoint discrimination”) and infringes upon freedom of association (“First amendment retaliation”).

Voting Rights Act of 1965: The [Voting Rights Act](#) is Federal legislation that prohibits racial discrimination in voting. The VRA was enacted to ensure minorities that their right to vote, as guaranteed by the Fifteenth Amendment, would not be abridged by state and local governments through the use of literacy tests, poll taxes, and other discriminatory electoral devices.

Shelby Co. vs Holder

The VRA originally required jurisdictions with a history of discrimination to get “pre-clearance” of election law changes. However, even though the VRA had been working, in 2013 the US Supreme Court ruled in a 5-4 decision along ideological lines to overturn the formula used to determine VRA “pre-clearance” in the [Shelby Co. vs Holder](#) case. Chief Justice Roberts said that America had “changed”, implying that we no longer needed laws like this to protect us from the perils of racism in our policies. In her dissent, Justice Ginsberg stated that was like putting away your umbrella in a rainstorm because you weren’t getting wet.

The VRA had been working in North Carolina. Between 2000 and 2012, when pre-clearance was in place, African American voter registration grew by 51.1% (compared to an increase of 15.8% for white voters). African American voter turnout surged and North Carolina emerged as a swing state in national elections.

When the “Shelby” decision was announced, US Representative John Lewis, who was beaten almost to death for marching for the right to vote in Selma, said, “the Supreme Court stuck a dagger into the heart of the Voting Rights Act of 1965, one of the most effective pieces of legislation Congress has passed in the last 50 years. These [five justices] were never denied the right to participate in the democratic process. They were never beaten, jailed, run off their farms or fired from their jobs. No one they knew died simply trying to register to vote. They are not the victims of gerrymandering or contemporary unjust schemes to maneuver them out of their constitutional rights.”

The same day that “Shelby” was announced, and NC no longer needed DOJ approval on voting laws, a NC lawmaker announced that the NCGA planned to enact a “full” voting bill that they had prepared. This bill, HB 589, attacked North Carolina's access to voting in several ways including requiring a strict “Voter ID”, and became known nationally as the “Monster Voting Law”. Three years later, just before the 2016 general election, it was struck down by federal courts for targeting African Americans with “surgical precision”.

HISTORY OF NORTH CAROLINA

GERRYMANDERING

19th CENTURY

After the Civil War, North Carolina enacted a new constitution that granted black men the right to vote. For a period of time, black and white men started voting together, and this coalition won seats in the legislature.

The elite white opponents who wanted to reserve power for themselves attempted to break the coalition with messaging targeted at less wealthy whites: “Conservatives said all Whites shared an interest in the debasement of the Negro. [Racism was a ‘tool to split’](#) a democratic revolution.” The affluent white oligarchy repeatedly enacted voting laws that, without explicitly mentioning race, made it more difficult for blacks to vote, including the use of literacy laws and poll taxes.

The 1877 legislature also gerrymandered legislative districts so as to minimize black and white coalition voting. The [anti-coalition party](#), which was then the Democratic Party, swept into power and held onto the NC state legislature for over 100 years.

20th CENTURY

Democrats were in control of the NC State Legislature for all of the 20th century. North Carolina lawmakers gerrymandered voting districts several times through the latter part of the 20th Century. Federal courts struck down various NC electoral district maps in the 1980s and 1990s for violating the VRA and/or Equal Protection, or both, in [major landmark federal cases](#) so famous that legal standards are named after them. The 1990s also saw coalitions of black and white voters in North Carolina voting for many of the same candidates.

21st CENTURY

In the 2008 election, there was historic voter turnout in North Carolina. The VRA had been working. In 2008, African Americans registered and voted at a higher rate than whites for the first time in North Carolina history, helping America elect its first African American president.

In response to the 2008 election, a national conservative group called “[Project RedMap](#)” launched a project “to

solidify conservative policy making at the State level and maintain a Republican stronghold House of Representatives for the next decade.” They would do this by controlling WHO would draw the voting district lines after the 2010 census. Out-of-state groups poured money into states where the state legislature had “primary control” over the redistricting process, like NC, and targeted low budget state seats. Opposing candidates and the Democratic Party were ill prepared and underfunded, and unable to compete with the onslaught.

So in 2010, in time for the census and next round of redistricting, Republicans gained control of the NC General Assembly (NCGA) after 112 years. The NCGOP went on to create the most gerrymandered electoral districts in the country. Federal courts have held that all 3 voting maps drawn by the NCGOP in 2011 were unconstitutional racial gerrymanders in violation of the Equal Protection Clause. The US Supreme Court agreed, and the current legislature has spent the past few years in court attempting to submit new map versions that pass muster.

In 2017, new NC legislative district maps were prepared with the help of a court-appointed “Special Master”. However, when adopting the revised legislative district maps, the NCGA also redrew some additional NC House districts, violating the NC constitutional prohibition against mid-cycle redistricting (a cycle is every 10 years, only after the census). The Court ruled against the NCGA again, right before the 2018 election, [ordering these districts to be corrected](#) before the 2020 election.

The US Congressional districts were redrawn to correct the racial gerrymander; however, the new maps were challenged on the basis that they were a partisan gerrymander. In 2018 a [federal court agreed](#) yet elections still were held under those maps due to time constraints. Oral arguments will be heard in front of the US Supreme Court on March 26th, 2019, on whether partisan gerrymandering will be ruled unconstitutional once and for all.

PENDING NC GERRYMANDERING CASES

North Carolina has suffered more major redistricting court cases than any other state. Over half a dozen major gerrymandering cases have been filed since 2011, at significant cost to taxpayers. Two of the outstanding cases are:

- [NC League of Women Voters & Common Cause v. Rucho](#): A federal three-judge panel held that North Carolina's redrawn congressional map (adopted in 2016 after the Court struck down the earlier map) was an unconstitutional partisan gerrymander. It has been appealed to the US Supreme Court, which is scheduled to hear arguments March 26th, 2019 (at the same time as the [pending Maryland case](#) which highlights a Democratic gerrymander).
- [Common Cause v. Lewis](#): This state case was filed in the North Carolina Superior Court and challenges NC's redrawn state legislative districts (redrawn in 2017 after courts struck down the prior map as a racial gerrymander) on partisan gerrymandering grounds under the NC state constitution. A trial date has been set in a NC state court for July 15, 2019. This case follows a successful challenge at the state level in [Pennsylvania](#).

WILL THE US SUPREME COURT SAVE US?

No matter how the US Supreme Court rules - it is **not the end of the story**. Constitutional law just sets a minimum standard. People often say the Constitution is "a floor not a ceiling". While we don't know how the Court will rule, some legal advisors are expecting a limited ruling which may not address the problem completely. However, by hearing arguments on the same day that both Democrats and Republicans are at fault (in the MD and NC cases), it becomes more difficult for them to claim it's a partisan issue and to deny action is needed.

Even if the courts strike down the maps as unconstitutionally partisan, it will still be up to the North Carolina General Assembly to *interpret* and apply the court decisions. Under current law, even if the NCGA has to re-draw the maps, they may still draw them more or less however they want, so long as the maps comply with the minimal standard set by the US Constitution. In addition, the NCGA has learned that even if they get it wrong, it is unlikely that anything will happen for many years. We have had these gerrymandered maps since 2011 - and we are *still* living under them. That's why the **process** of drawing maps needs to be fixed now.

In NC, the state legislature is not required to be impartial or evenhanded, and there are not enforceable ways to include citizen involvement in the redistricting process. Other states with citizen ballot initiatives were able to pass independent redistricting laws in the 2018 election, and [Virginia](#) and [New Hampshire](#) just approved independent commissions through their legislatures this year. There is not a way to place a citizen-led initiative on the ballot in NC, so if we want the law to change we have to bring political pressure on the NCGA to change it.

All signs are pointing in the direction that now is the best opportunity we have to get independent redistricting passed by the NC General Assembly. The political uncertainty driven by ongoing litigation, another Blue Wave in 2020, and increased public awareness of the perils of gerrymandering create an environment where future political power is unknown, and therefore it would benefit both parties to ensure fair practices are in place now.

2020 – THE NEXT REDISTRICTING CYCLE

If the court directs new NC maps to be drawn before the 2020 election, they will *still need to be re-drawn* all over again in 2021 for the next ten years, after the new census data is distributed to states for redistricting updates. Gerrymandering lawsuits are still going on from the last redistricting cycle, and we could see the same situation happening again, unless the process is changed at the state level now.

After 2020, NC will likely gain a seat in the US House because of population growth. Under North Carolina state law, whichever party controls the North Carolina state legislature in 2020 will draw the voting district maps after the 2020 census. Remember, under current NC law, voting maps may be drawn in secret, and the Governor cannot veto them. All 170 seats in the NC House and NC Senate are up for re-election every two years, so the 2020 election will be more important than ever, especially if independent redistricting is not passed before then.

OUR BEST OPTION MOVING FORWARD

We cannot wait and hope that the Supreme Court will solve all of our problems. In order to have fair voting maps in NC, we need to change the state laws that govern redistricting now. Our best option is to ensure redistricting bills are discussed in committee, with public input, so lawmakers can have the opportunity to publicly deliberate the elements of each bill, and move forward to a vote.

Voting districts should be drawn with the primary goal of ensuring that all people in NC have a representative in government to look out for the interests of their community when it comes to writing the laws and making the decisions that affect their everyday lives.

Drawing fair voting maps requires: 1) an open, unbiased process with citizen participation and access at all levels and steps of the process; and 2) impartial, measurable criteria that does NOT include considering the address or location of incumbents, or the partisan affiliation of voters.

Two bills have been introduced recently, [HB69](#) and [HB140](#), and we may see another this session. Common Cause NC has outlined the [highlights of HB69 here](#):

Fact Sheet – House Bill 69

- An eleven-person commission will be made up of voters nominated by legislative leaders.
- The commission will have four members from each of both major parties as well as three voters not affiliated with either major party. The four legislative leaders responsible for appointing the commissioners shall have the goal of representing the state's racial, ethnic, geographic and gender diversity.
- The commission will hire staff to assist them, hold public hearings both before and after the drawing of the maps, and create the maps in a transparent public process.
- The commission is to seek public input, by holding public hearings and permitting the submission of proposed maps online and by mail.
- The commission is tasked with drawing districts that will be compact, contiguous, and abide by state and federal law. No use shall be made of political factors, including voter registration, previous election results, or incumbents' addresses, except where needed to comply with state and federal law.
- Once the commission completes and approves a redistricting plan, the plan will be sent to the NC General Assembly, which will vote on the maps without altering them.
- The process will outline a schedule to provide the General Assembly with proposed maps as quickly as possible.

HB140 was [recently introduced](#) by Republican donor Art Pope and former UNC President Tom Ross, which would have a constitutional amendment on the ballot in 2020 to address the redistricting process. HB140, or the FAIR Act, has some bi-partisan support and would ban the use of political data in mapmaking. It would however, leave the legislature responsible for drawing the districts rather than an independent commission, although a commission would be possible in the future.

CALLS TO ACTION

North Carolina voters must play an active role in redistricting reform if we are to have fair maps in North Carolina. The only path for redistricting reform goes through the North Carolina state legislature – which means NC voters must demand fair districts from their elected officials.

Contact your representatives in the NC General Assembly and ask them to support redistricting reform by ensuring redistricting bills are heard and discussed in committee and moved forward to a vote.

Tell your representatives that successful redistricting reform in North Carolina must include provisions to ensure racial equity, and not rely on the prospect of federal litigation to protect the interests of African-American voters and other racial, ethnic, or religious minorities.

You can find your NC legislators here: <https://www.ncleg.gov/RnR/Representation>

Letters to editors of local papers and discussions with friends and neighbors about this issue will go a long way also. Talk about your community as a whole, with a shared identity to highlight the need for compact lines which represent the specific needs of your area, rather than having awkward stretches hundreds of miles away where the local needs may be much different.

Sign the pledge at <http://endgerrymanderingpledge.org/>

Check to see if your local civic leader voiced their support for independent redistricting, and if not, ask them to. <http://endgerrymanderingnow.org/civic/list/>

Watch and share [this 10 min. video](#) from the Campaign Legal Center (CLC) which spotlights gerrymandering in NC, and interviews some of the plaintiffs in the LWV and Common Cause v Rucho case.

In January 2019, Common Cause, and the Duke Center for Political Leadership, Innovation, and Service (POLIS) hosted a 2 day workshop called, “Reason, Reform, and Redistricting”, with local and nationally renowned panelists talking about all things redistricting. They have made their workshop available online, and you can [view the agenda and videos of each panel at this link](#). It’s well worth your time to **watch the discussion!**

Know the 3 primary obstacles we face in this challenge and prepare to meet them head on.

1. Educating the public on this issue, and the impact of not addressing it
2. Legislative push back
3. Finding ways to increase civic engagement, with consideration given to overcoming fatigue, interest levels, and access to legislators

This is our moment in history, when we can end hundreds of years of bad practices, and return the ballot to the voters for fair representation. But the courts and good government organizations can’t do it alone. It’s our democracy and we are the ones who have to take it back. Thank you for participating!

Much appreciation goes to the works of David Daley, Rick Hasen, Justin Levitt and Michael Li which were invaluable as we learned about redistricting.

Note: Original sources and portions of this content were originally published in: [Fair Maps for North Carolina](#), by Aylett Colston