

Designing a Transparent and Ethical Redistricting Process:

A Guide to Ensuring that the Redistricting Process is Fair, Open, and Accessible



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INTRODUCTION

The purpose of this report is to empower state legislators, good government advocates, activists, and members of redistricting commissions with the tools and knowledge needed to ensure that their respective redistricting processes are transparent and accountable, and that members of the public at-large and communities of interest can provide meaningful input during the redistricting cycle.

Redistricting, particularly when legislators draw electoral districts, is a minefield of ethical concerns and conflicts of interest. Although legislators can draw electoral districts in a manner that entrenches their political party's power, legislators may also draw districts in a way that benefits them personally or politically. For example, in 2000, then State Senator Barack Obama challenged Bobby Rush, the incumbent, for an Illinois congressional seat. Although Obama ultimately lost the primary election, he still won 30% of the vote and a rematch was expected. However, the Illinois legislature, in a process that has been historically deferential to incumbents, subsequently redrew its congressional districts. The Illinois legislature ultimately enacted a map that carved Obama's home out of the congressional district that Rush represented. No candidate challenged Rush in 2002 or 2004.¹ All, of course, was not lost for Obama. In that same redistricting cycle, he redrew his own state senate seat in such a way as to "give him the two things he needed to run for the U.S. Senate in 2004: money and power."²

Voters across the country have approved measures creating redistricting commissions to fight against the self-interest inherent when politicians are responsible for creating electoral districts.

As redistricting commissions have become increasingly popular and because the 2021 redistricting cycle is approaching, it is important that these bodies are transparent and accountable to the people. Voters have the right to choose their elected officials, not the other way around. Transparency and ethics rules can help to ensure this.

A. What is Redistricting?

Redistricting is the process of redrawing the electoral districts within each state. For the U.S. House of Representatives, a state must wait until reapportionment (defined below) is finished before it can divide the state into the allotted number of congressional districts. For state house and senate districts, however, states can start redistricting as soon as they receive the decennial Census results. States draw their district lines according to the procedures and criteria set out in state and federal law.³

Reapportionment is the process by which the federal government determines how many seats each state will receive in the United States House of Representatives. It happens every 10 years, after the decennial U.S. Census results are released, and is based on a state's population.

The Census is taken in the "zero year" (2000, 2010, 2020), and the results are released in the "one year" (2001, 2011, 2021). Once states are informed of the number of seats they will receive in the House of Representatives, as well as the state's population according to the most recent Census, they can begin the process of redistricting.

B. What are Redistricting Commissions?

In most states, the state legislature draws congressional and state legislative district boundaries. However, some states give the power of redistricting to a commission. There are various types of redistricting commissions, and the types can be grouped in different ways.

Independent Commissions – Also known as IRCs, these type of commissions take the power of redistricting out of the hands of legislators and aim to create district boundaries that are not beholden to any political party. They generally allow for greater public input in the process, and usually include voters as map drawers and as members. Sixty percent of voters across party lines support creating independent citizen-led commissions to draw district lines.⁴

In Michigan, for example, voters approved an IRC in 2018 that vests redistricting authority with 13 randomly-selected Michigan registered voters: four who affiliate with the Democratic Party, four who affiliate with the Republican Party, and five who do not affiliate with either major political party. The IRC is slated to redraw Michigan’s districts for the first time in the 2021 redistricting cycle.

Bipartisan Commissions – This type of commission takes the power of redistricting away from the legislature, and give it to both major parties in equal measure. These differ from Independent Commissions because there is the possibility that the parties work together to advantage themselves, without public input or consideration.

In Hawaii, for example, a nine-member commission draws the congressional and state legislative district lines.⁵ The majority and minority leaders of both houses of the Hawaii legislature each select two members. These eight members then select a ninth tie-breaking commissioner. The Hawaii Supreme Court appoints a ninth member if the commission is unable to reach an agreement on the ninth member.

Advisory Commissions – These do not take the legal power of redistricting away from the legislature, but can have a great influence on the process depending on the culture of the state. These run the gamut from drawing plans that are almost always approved by the legislature, to offering plans that are entirely ignored.

In Iowa, for example, the Legislative Services Agency (“LSA”) prepares electoral maps that the Iowa General Assembly approves. The LSA is “a nonpartisan, central legislative staff agency under the direction and control” of the state legislature.⁶ LSA drafts redistricting plans under criteria set by statute but where LSA has some discretion, it relies on guidance from a five-person commission. The majority and minority leaders of both houses of the Iowa legislature each select one member. These four members then select a fifth tie-breaking commissioner.

When LSA submits plans to the legislature, the legislature can either accept or reject the plans, but cannot modify them. If the legislature rejects the plans, it may provide feedback. The legislature can then either accept or reject, but not modify, LSA’s second set of plans. If the legislature rejects the second set of plans, it can provide additional feedback. LSA will then prepare a third set of plans that the legislature is allowed to modify.⁷ Although the Iowa legislature has the ability to reject three LSA plans and then substitute its own plans, it has not done so since Iowa adopted this process in 1980.⁸

Backup Commissions – These are used in some states but only where the legislature is unable to agree upon a redistricting plan.

In Texas, for example, the legislature is primarily responsible for drawing state legislative lines. However, if it fails to approve an electoral map for state legislative districts, authority vests in a five-member commission. The commission consists of the Lieutenant Governor, the Speaker of the state House, the state Attorney General, the Comptroller of Public Accounts, and the Commissioner of the General Land Office.⁹

C. What are Ethics?

“Public service is a public trust.” This is the first line of the Standards of Conduct for Employees of the Executive Branch. The simple phrase encapsulates the purpose behind ethics laws and rules: to protect the public and ensure that the public’s interest is put above private gain. Public confidence in the integrity of democratic institutions is one of the hallmarks of a healthy democracy.

Ethics laws exist at all levels of government and in all types of government bodies, including redistricting commissions. Ethics codes reflect the reality that people in positions of public service—whether at city hall, the statehouse, the Capitol Building or the White House—have tremendous power that affects the lives of many. But in a democracy, public servants only borrow that power—its true owner is the public, who entrusts public servants with their power. Therefore, public service comes with a tremendous amount of responsibility to use that entrusted power for the public’s benefit—not for personal private gain.

Strong and enforceable ethics rules are essential in the redistricting process, where individuals who engage in self-dealing can affect the representation and government funding for broad swaths of citizens for a decade. Good ethics plans have several overarching principles that make them effective at preventing and finding unethical conduct.

Transparency – Laws that require transparency are crucial to ensuring ethical conduct in the administration of government functions. Disclosure of decision-makers’ finances helps detect potential conflicts of interest. Advice issued to public officials when made public, even if anonymized, ensures all officials have access to the same information and interpretation of the laws. Governments often assign an advisory body that supports these transparency efforts, whether it be by providing advice on what the ethics obligations are for a public servant, collecting and reviewing financial disclosure reports for any possible conflicts, or helping resolve any potential conflicts of interest.

Substantive transparency can also assist with ethical compliance. The knowledge that the process by which a new map is devised will become public may incentivize public servants to act ethically and in the best interests of the public. For example, in 2019, North Carolina State Senator John Alexander announced that he would not be seeking reelection after he was caught on video attempting to gerrymander his district to keep the seat safer for him.¹⁰

Accountability – Ethics rules require accountability measures in order ensure compliance. Holding public servants accountable for adhering to ethical rules or principles can take a number of forms, from regular audits of financial interests to strong enforcement procedures.

Standards of Conduct – Laws and rules cannot anticipate all forms of unethical conduct that may crop up in the course of public service. That is why the government body typically agrees on standards of conduct that provide broad guidelines for public servants to follow. These often include catch-all provisions that caution against engaging in any conduct that would raise even the appearance of impropriety.

D. Types of Transparency and Accountability Rules in Redistricting

Why Should Commissions Have Transparency and Accountability Rules?

Every so often, newspapers or government watchdog groups like CLC, across the country expose unethical conduct (that may be technically legal) of legislators. From conflicts of interest and “revolving door” issues to campaign finance violations¹¹, what is clear is that institutional measures establishing ethical rules are vital to help ensure that legislators are behaving ethically while working for the public good. In addition, transparency and accountability rules give members of the public and communities of interest an opportunity to participate and provide feedback during the redistricting process. Thus, to help ensure that electoral maps are drawn in a fair and open manner, ethics and transparency rules should also apply to redistricting commissions. Below are several provisions that can or should apply to the redistricting process in general, but also specifically to redistricting commissions.

1. Commissioners and Staff Are Subject to State Ethics Rules/ Ethics Commissions

The vast majority of states have State Ethics Commissions that implement government ethics rules and laws. In the redistricting context, Ethics Commissions should have jurisdiction over the conduct of redistricting commissioners. States may also consider granting the State Ethics Commission oversight power over the appointment of members to the state redistricting commission.¹²

example:

Proposal for South Carolina

Section 2-80-30. The State Ethics Commission shall oversee the appointment of the members of the South Carolina Citizens Redistricting Commission that is tasked with the post-census decennial reapportionment plan for the House of Representatives, Senate, and congressional districts.¹³

2. Commissioners and Staff Conflict of Interest Exclusions

Some commissions, especially independent commissions, include eligibility prohibitions on who could be a commissioner. For example, most independent commissions exclude some combination of recent or current elected officials, political party officials, lobbyists, or government employees as candidates for the commission. Commissions should ensure that these exclusions also apply to the staff and consultants that the commission hires.

example:

Arizona

Within the three years prior to appointment, members shall not have been appointed to, elected to, or a candidate for any other public office, including precinct committeeman or committeewoman but not including school board member or officer, and shall not have served as an officer of a political party, or served as a registered paid lobbyist or as an officer of a candidate's campaign committee.¹⁴

example:

Michigan

Each commissioner shall: . . . (b) Not currently be or in the past 6 years have been any of the following: (i) A declared candidate for partisan federal, state, or local office; (ii) An elected official to partisan federal, state, or local office; (iii) An officer or member of the governing body of a national, state, or local political party; (iv) A paid consultant or employee of a federal, state, or local elected official or political candidate, of a federal, state, or local political candidate's campaign, or of a political action committee; (v) An employee of the legislature; (vi) Any person who is registered as a lobbyist agent with the Michigan bureau of elections, or any employee of such person; or (vii) An unclassified state employee who is exempt from classification in state civil service pursuant to article XI, section 5, except for employees of courts of record, employees of the state institutions of higher education, and persons in the armed forces of the state.¹⁵

3. Commissioners and Staff Should Have a Cooling-off Period

In other contexts, “revolving door” describes the practice of public officials leaving public service for lobbying positions. To prevent this practice, most states set a mandatory waiting or “cooling-off” period before public officials can engage in lobbying activities.

In the redistricting context, a commissioner should be prohibited from running for a legislative or congressional seat for a period of time after leaving the redistricting commission. This helps to ensure that electoral districts are not drawn for the commissioner’s personal benefit.

example:

Michigan

(e) For five years after the date of appointment, a commissioner is ineligible to hold a partisan elective office at the state, county, city, village, or township level in Michigan.¹⁶

example:

Arizona

(13) A commissioner, during the commissioner’s term of office and for three years thereafter, shall be ineligible for Arizona public office or for registration as a paid lobbyist.¹⁷

example:

California

(6) Each commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature, or any individual legislator, or to register as a federal, state or local lobbyist in this State.¹⁸

4. Ban on Solicitation of Gifts by Commissioners and Staff

To avoid conflicts of interest and promote ethical behavior, states should limit or eliminate the solicitation or acceptance of gifts by members of the redistricting commission and its staff. These limits help ensure that commissioners devise maps consistent with the public interest, and without regard for private gain or influence.

example:

Michigan

The commission, its members, staff, attorneys, experts, and consultants may not directly or indirectly solicit or accept any gift or loan of money, goods, services, or other thing of value greater than \$20 for the benefit of any person or organization, which may influence the manner in which the commissioner, staff, attorney, expert, or consultant performs his or her duties.¹⁹

example:

Colorado

(1) No public officer, member of the general assembly, local government official, or government employee shall accept or receive any money, forbearance, or forgiveness of indebtedness from any person, without such person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who accepted or received the money, forbearance or forgiveness of indebtedness.

(2) No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as the beneficiary of a gift or thing of value given to such person's spouse or dependent child, shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty dollars (\$50) in any calendar year, including but not limited to, gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts, from a person, without the person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who solicited, accepted or received the gift or other thing of value.²⁰

5. Prohibition on Employer Retaliation Against Commissioners

Another way that states can safeguard ethical map-drawing is by prohibiting employer retaliation against commission members. These protections can ensure that members are free to perform redistricting tasks independently and without fear of employer reprisal.

example:

Michigan

(21) Notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee because of the employee's membership on the commission or attendance or scheduled attendance at any meeting of the commission.²¹

6. Commissions Should Require a Minimal Number of Meetings or Public Hearings Throughout the State

Commissions should promote public involvement. One way of doing that is requiring a certain number of meetings throughout the state both before and after a commission releases proposed maps. Commissions should also strongly consider having both in-person and video/streaming options, as well as translation services and information accessible to those who may not speak English as a primary language.

Full disclosure throughout the process and public hearings on the plan proposed for adoption as well as specific timelines for steps leading to a redistricting plan must be available to the public well in advance of proposed plan introduction. Citizen participation and access at all levels and steps of the process must be a priority. The commitment to public input is evidenced by adequate public comment periods before and after the introduction of redistricting proposals; disclosure of committee timelines and other important details; and opportunities for community groups, especially those representing diverse voices, to get involved.

Public hearings and comment periods are vital to creating a record of what occurred during the redistricting process. If a district map gets challenged in court, transcripts, documents, or alternative maps presented at hearings or during the comment period are important pieces of evidence for advocates.

example:

Michigan

(8) Before commissioners draft any plan, the commission shall hold at least ten public hearings throughout the state for the purpose of informing the public about the redistricting process and the purpose and responsibilities of the commission and soliciting information from the public about potential plans. The commission shall receive for consideration written submissions of proposed redistricting plans and any supporting materials, including underlying data, from any member of the public. These written submissions are public records.²²

example:

Colorado

(b) The commission must, to the maximum extent practicable, provide opportunities for Colorado residents to present testimony at hearings held throughout the state. The commission shall not approve a redistricting map until at least three hearings have been held in each congressional district, including at least one hearing that is held in a location west of the continental divide and at least one hearing that is held in a location east of the continental divide and either south of El Paso county's southern boundary or east of Arapahoe county's eastern boundary. No gathering of commissioners can be considered a hearing for this purpose unless it is attended, in person or electronically, by at least ten commissioners. The commission shall establish by rule the necessary elements of electronic attendance at a commission hearing.²³

7. Require All Data Used by the Commission to be Made Public in Accessible Formats

Commissions should release all data used to draw the electoral districts to the public in an accessible format. Commissions may also provide software, tools, or other resources that allow the public to submit their own proposed maps. Software provided should be the same as or substantially similar to that used by commission or other map drawing body, including legislatures. This can allow the public to provide their own input as well as to audit the commission-created maps.

example:

Michigan

(9) After developing at least one proposed redistricting plan for each type of district, the commission shall publish the proposed redistricting plans and any data and supporting materials used to develop the plans. Each commissioner may only propose one redistricting plan for each type of district. The commission shall hold at least five public hearings throughout the state for the purpose of soliciting comment from the public about the proposed plans. Each of the proposed plans shall include such census data as is necessary to accurately describe the plan and verify the population of each district, and a map and legal description that include the political subdivisions, such as counties, cities, and townships; man-made features, such as streets, roads, highways, and railroads; and natural features, such as waterways, which form the boundaries of the districts.²⁴

8. Require All Draft Maps and Reports to be Released on a Publicly-Accessible Website

Once the commission agrees on a final map, all draft maps, public testimony and a final report²⁵ detailing the reasons why the commission drew the electoral districts in the manner that it did should be released to the public. This will allow the public to see if and how the commission adjusted electoral districts based on public input and provide further confidence that the maps were drawn in a manner consistent with the mapping criteria.

The website should also include the names of the commissioners, the mapping criteria that the commission is using to draw the maps, and information regarding streaming information for hearings and transcripts of meetings. The website should also highlight the timeline for various map drawing events such as public hearings, the public comment period, the date a draft plan is due and the date that the commission must submit a final plan.

example:

Utah

(13) The commission shall maintain a website where the public may:

- (a) access announcements and records of commission meetings and hearings;
- (b) access maps presented to, or under consideration by, the commission;
- (c) access evaluations described in Subsection 20A-20-302(8);
- (d) submit a map to the commission; and
- (e) submit comments on a map presented to, or under consideration by, the commission.²⁶

9. Subject the Commission to State Open Meetings/FOIA Rules

If a state has open meetings or freedom of information laws, these laws should also apply to the redistricting commission. As one federal court put it, these laws are vital to:

open up the workings of government to public scrutiny. One of the premises of that objective is the belief that an informed electorate is vital to the proper operation of a democracy. A more specific goal implicit in the foregoing principles is to give citizens access to the information on the basis of which government agencies make their decisions, thereby equipping the populace to evaluate and criticize those decisions.²⁷

If the state does not have open meetings or freedom of information laws, the Commission should adopt these laws for its deliberation process.

example:

Proposal in Arkansas

The Commission shall protect the public trust and discharge its imperative duty through a transparent process. All meetings, whether formal or informal, special or regular, of the Commission shall be advertised and open to the public. The Secretary of State shall maintain and electronically publish as soon as practicable all Commission work product, and alternate and final maps. All records of communications of the Commissioners, and Commission staff and outside consultants, that relate to the Commission's imperative duty shall be deemed public records. Any person who receives income or reimbursement to directly or indirectly communicate with a Commissioner to influence Commission action shall publicly disclose such fact prior to taking such action.²⁸

10. Require a Reasonable Public Comment Period for Proposed Maps

In addition to public hearings, and before voting on proposed maps, commissions should provide a reasonable public comment period to give the public an opportunity to voice concerns and suggestions about the proposals under consideration. This is particularly useful because not all members of the public who may have feedback can attend public hearings. The public comment period ensures not only that the redistricting process is transparent, but also that the commission's decisions are subject to democratic feedback.

example:

Michigan

(b) Before voting to adopt a plan, the commission shall provide public notice of each plan that will be voted on and provide at least 45 days for public comment on the proposed plan or plans. Each plan that will be voted on shall include such census data as is necessary to accurately describe the plan and verify the population of each district, and shall include the map and legal description required in part (9) of this section.²⁹

11. Commissioners Must be Impartial

Applicants to a commission should be recommended or chosen based on their ability to perform their duties impartially. Judgments of impartiality are based on a holistic review of an applicant's background, demonstrating an ability to set aside personal political views and interests while serving as a member of the commission.

example:

California

(a) "Ability to be impartial" means that although an applicant may have strong views, and may have participated in social or political causes, the applicant has the capacity and willingness, while serving as a member of the commission, to set aside his or her personal views and all of the following considerations in order to evaluate information with an open mind and make decisions that are fair to everyone affected, including, but not limited to, the establishment of legislative and State Board of Equalization districts that are in compliance with the United States Constitution, the Voting Rights Act of 1965 (commencing with section 1971 of title 42 of the United States Code), and the criteria set forth in subdivision (d) of section 2 of Article XXI of the California Constitution:

- (1) Personal interests including, but not limited to, personal financial interests.
- (2) Biases for or against any individuals, groups, or geographical areas.
- (3) Support for or opposition to any candidates, political parties, or social or political causes.

(b) An applicant may demonstrate an ability to be impartial through a description of that ability and both of the following:

- (1) Having no personal, family, financial relationships, commitments, or aspirations that a reasonable person would consider likely to improperly influence someone making a redistricting decision.
- (2) Occupational, academic, volunteer, or other life experiences that show an ability to set aside his or her personal interests, political opinions, and group allegiances to achieve a broad objective.³⁰

12. Establish Removal Procedures for Misconduct

In addition to ethical rules of conduct, states should have clearly defined removal procedures for commissioner misconduct. These procedures should spell out the process through which commissioners found to have violated ethics rules can be removed and replaced.

example:

Michigan

A commissioner's office shall become vacant upon the occurrence of any of the following: . . . (e) After written notice and an opportunity for the commissioner to respond, a vote of 10 of the commissioners finding substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office.³¹

example:

Utah

- (4) (a) The commission may, by majority vote, adopt a code of ethics.
- (b) The commission, and the commission's members and employees, shall comply with a code of ethics adopted under Subsection (4)(a).
- (c) The executive director of the commission shall report a commission member's violation of a code of ethics adopted under Subsection (4)(a) to the appointing authority of the commission member.
- (d) (i) A violation of a code of ethics adopted under Subsection (4)(a) constitutes cause 242 to remove a member from the commission under Subsection 20A-20-201(3)(b).³²

E. Conclusion

Redistricting commissions are entrusted with work that lies at the heart of American representative democracy: drawing the boundaries of our congressional and state legislative districts. That is why it is essential that these commissions act in accordance with the public interest. Commissions should be designed to ensure that members act ethically and are accountable to the people they serve. Transparent and accountable commissions guided by ethics rules are instrumental to a democratically legitimate redistricting process.

Recommendations to Help Ensure that the Redistricting Process is Open, Transparent, and Ethical.³³

- Commissioners and Staff Are Subject to State Ethics Rules/Ethics Commissions.
- Commissioners and Staff Are Subject to Conflict of Interest Exclusions.
- Commissioners and Staff Should Have a Cooling-Off Period
- Commissioners and Staff Should Be Banned from Soliciting Gifts.
- Employers Should Be Prohibited from Retaliating Against Commissioners.
- The Redistricting Process Should Include a Minimal Number of Meetings or Public Hearings Throughout the State.
- The Data Used in the Redistricting Process Should Be Made Publicly Available in Easily Accessible Formats.
- All Draft Maps and Reports Should Be Released on a Publicly-Accessible Website.
- The Redistricting Process Should Be Subject to State Open Meetings/ FOIA Rules.
- The Redistricting Process Should Have a Mandatory Comment Period for Proposed Maps.
- Commissioners Must Be Impartial.
- States Should Establish Removal Procedures for Misconduct.

Endnotes:

- ¹ Ryan Lizza, *Making It: How Chicago shaped Obama*, *New Yorker*, July 21, 2008, available at http://www.newyorker.com/reporting/2008/07/21/080721fa_fact_lizza (last visited August 19, 2020).
- ² Sarah Childress, *Artifact Nine: Obama's Big Political Play*, *PBS*, October 1, 2012, available at <https://www.pbs.org/wgbh/pages/frontline/government-elections-politics/choice-2012/artifact-nine-obamas-big-political-play/> (last visited August 19, 2020).
- ³ Although greater attention is being paid to local redistricting, this report primarily focuses on state legislative and congressional redistricting.
- ⁴ Campaign Legal Center, *Movement to Establish Citizen-Led Redistricting Commissions in the States*, <https://campaignlegal.org/cases-actions/movement-establish-citizen-led-redistricting-commissions-states> (last visited January 25, 2021).
- ⁵ HI. CONST. art. IV.
- ⁶ https://www.ncsl.org/Portals/1/documents/lsss/webinars/Relevant_provisions_lowa_Code.pdf
- ⁷ <https://www.legis.iowa.gov/docs/code/2020/42.pdf>
- ⁸ <http://redistricting.ils.edu/states-IA.php>
- ⁹ <https://statutes.capitol.texas.gov/Docs/CN/htm/CN.3.htm#3.28>
- ¹⁰ Dan Desai Martin, *GOP state senator quits rather than run in district that's not gerrymandered*, Sept. 16, 2019, available at <https://americanindependent.com/north-carolina-gerrymandering-john-alexander-republican-senator/> (last visited August 20, 2020); see also
- ¹¹ Campaign Legal Center, *Principles for Designing an Independent Ethics Commission*, <https://campaignlegal.org/sites/default/files/2018-06/Principles%20for%20Designing%20an%20Independent%20Ethics%20Commission.pdf>.
- ¹² In some states, ethics commissioners are politically appointed. For example, in Arkansas, the Governor, the Lieutenant Governor, the Attorney General, the President Pro Tempore of the Senate, and the Speaker of the House each choose one member of the commission. Ark. Ann. Code. §7-6-217. Additionally, some ethics commissions are only advisory. For example, the Michigan Ethics Commission is "advisory and investigatory and the [ethics commission] is not empowered to take direct action against any person or agency." Mich. Comp. Laws Ann. § 15.343. Thus, it may also be prudent to place transparency and ethics laws related to the redistricting directly in the statute or constitutional amendment that addresses the redistricting process.
- ¹³ S 0254 General Bill (SC Citizens Redistricting Commission), https://www.scstatehouse.gov/sess123_2019-2020/bills/254.htm
- ¹⁴ ARIZ. CONST. art. IV, §1(3).
- ¹⁵ MICH. CONST. art. IV, § 6(1)(b). Two federal courts have upheld these provisions as constitutional. See, e.g., *Daunt v. Benson*, 1:19-cv-00614 (W.D. Mich.); *Daunt v. Benson*, 19-2377 (6th Cir.).
- ¹⁶ MICH. CONST. art. IV, § 6(1)(e).
- ¹⁷ ARIZ. CONST. art. IV, §1(13).
- ¹⁸ CA. CONST. art. XXI, § 2(6).
- ¹⁹ MICH. CONST. art. IV, § 6(11).
- ²⁰ COLO. CONST. art. XXIX, § 3
- ²¹ MICH. CONST. art. IV, § 6(21).
- ²² MICH. CONST. art. IV, § 6(8).
- ²³ COLO. CONST. art. V, § 48(e).
- ²⁴ MICH. CONST. art. IV, § 6(9).

- ²⁵ https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2011/08/crc_20110815_2final_report.pdf
- ²⁶ Redistricting Amendments, S.B. 200 (2020), <https://le.utah.gov/~2020/bills/static/SB0200.html>
- ²⁷ *McGehee v. C.I.A.*, 697 F.2d 1095, 1108 (D.C. Cir. 1983) (internal quotations and citations omitted).
- ²⁸ University of Arkansas, *The Arkansas Citizens' Redistricting Commission Amendment*, Section 2, https://www.uaex.edu/business-communities/voter-education/docs/Citizens_Redistricting_Commission-Sample_Petition_Part.pdf (last visited January 25, 2021).
- ²⁹ MICH. CONST. art. IV, § 6(14)(b).
- ³⁰ CA Voters First Act Guide, 12.
- ³¹ MICH. CONST. art. IV, § 6(3)(e).
- ³² Redistricting Amendments, S.B. 200 (2020), <https://le.utah.gov/~2020/bills/static/SB0200.html>
- ³³ Although this report focuses primarily on independent redistricting commissions, these rules could also apply to other redistricting processes such as when the legislature is responsible for drawing the electoral districts.

