



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** COUNTY COUNSEL

**File #:** 21-078

Board Meeting Date: 1/26/2021

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**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** President David Canepa, District 5  
Vice-President Don Horsley, District 3

**Subject:** Presentation on Supervisorial Redistricting Requirements and Discuss and/or Act Regarding Establishment of Redistricting Process

**RECOMMENDATION:**

Accept presentation on Supervisorial redistricting requirements and discuss and/or act regarding establishment of the County's redistricting process.

**BACKGROUND:**

The Board established the County's current Supervisorial districts in November 2013. To assist with the district-drawing process, the Board elected to form an advisory committee, the San Mateo County Supervisorial District Lines Advisory Committee, which consisted of two Board members (Supervisor Slocum and then-Supervisor Tissier), two elected city representatives (one from Daly City and one from East Palo Alto), and five public members, one from each Supervisorial district. The Committee held 10 public meetings, two in each district, before recommending three draft maps to the Board.

In prior cycles, the Board performed the redistricting processes itself, which has historically been the most common method around the State.

The Board must ensure the Supervisorial districts remain substantially equal in population based data from the 2020 federal census. (Elec. Code, § 21500(a)). Staff requires guidance from the Board as to the type of redistricting process it would like to utilize.

**DISCUSSION:**

**A. State Law Imposes New Requirements in Drawing District Boundaries.**

District boundaries must comply with the United States Constitution, the California Constitution, and the Voting Rights Act of 1965 (Elec. Code, § 21500(b)), plus new state law requirements added since

2013 (see Assem. Bills 849, 1276 (2019-2020), (2020-2021)).

District boundaries cannot be adopted for the purpose of favoring or discriminating against a political party (Elec. Code, §§ 21500(d)), and the Board *must* utilize the following *ranked* criteria:

- First, to the extent practicable, Supervisorial districts must be geographically contiguous;
- Second, to the extent practicable, the geographic integrity of any local neighborhood or local community of interest must be respected in a manner that minimizes its division;
- Third, to the extent practicable, the geographic integrity of a city or census designated place must be respected in a manner that minimizes its division;
- Fourth, district boundaries should be easily identifiable and understandable by residents; and
- Fifth, to the extent practicable, and where it does not conflict with the above criteria, districts must be drawn to encourage geographical compactness in a manner that nearly areas of population are not bypassed in favor of more distant populations.

(Elec. Code, § 21500(c).)

To compare, when the Board adopted the current Supervisorial districts in 2013, Elections Code Section 21500 provided, in relevant part: “[i]n establishing the boundaries of the districts the board *may* give consideration to the following factors: (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interests of the districts [italics added].” Thus, what had been discretionary, generalized, unranked criteria are now mandatory, specific, and ranked.

## **B. The Boundaries May Be Drawn by the Board or by a Commission.**

The Board may draw the new district boundaries itself or establish (by ordinance or resolution) an advisory redistricting commission, independent redistricting commission, or a hybrid redistricting commission. (Elec. Code, § 23001.)

### **1. The Board Draws the Boundaries Without a Commission.**

Before 2013, the Board drew district boundaries on its own, a right the Board still retains. Staff has already contracted with National Demographics Corporation, the same demographer the County used in 2013, to assist in the new district-drawing process. According to National Demographics Corporation, most California counties intend to avail themselves of this option and draw the boundaries on their own without a commission.

### **2. Advisory Commission.**

An advisory redistricting commission, similar to the one the Board established in 2013, recommends proposed district boundaries to the Board. (Elec. Code, § 23000(a).) The Board decides who is appointed to the advisory commission and establishes the process for appointment. The only statutory restriction is that “[a] person who is an elected official of the [County], or a family member, staff member, or paid campaign staff of an elected official of the [County], shall not be appointed to serve on the commission.” (Elec. Code, § 23002(b).) Thus, unlike in 2013, members of the Board can no longer serve on an advisory commission.

### 3. Independent or Hybrid Commission.

An independent redistricting commission is empowered to adopt the district boundaries, meaning the Board has no authority over the final map. (Elec. Code, § 23000(d).) A hybrid redistricting commission recommends two or more maps and the Board *must* then adopt one of those maps without modification (except as may be required to comply with state or federal law). (Elec. Code, § 23000(c).)

The restrictions surrounding an independent or hybrid commission are more robust than those that apply to an advisory commission. The Board may still determine the manner in which members are appointed, but must use “an application process open to all eligible residents and provided that the commissioners are not directly appointed by the [Board] or an elected official of the [County].” (Elec. Code, § 23003(b).)

As to who can serve on an independent or hybrid commission, “[a] person shall not be appointed to serve on the commission if the person or any family member of the person has been elected or appointed to, or been a candidate for, an elective office of the [County] in the eight years preceding the person’s application.” (Elec. Code, § 23003(c).) Moreover, a person cannot be appointed to serve on either an independent or hybrid commission if:

- The person or his/her spouse has, within eight (8) years of applying, worked for an elected officer, or candidate for elective office, of the County, been a registered lobbyist for the County, or contributed at least \$500 to any candidate for elective office of the County; or
- The person’s family member (other than spouse), has, within four (4) years of applying, worked for an elected officer, or candidate for elective office, of the County, been a registered lobbyist for the County, or contributed at least \$500 to any candidate for elective office of the County.

(Elec. Code, § 23003(d).) Finally, neither commission shall “be comprised entirely of members who are registered to vote with the same political party preference.” (Elec. Code, § 23003(f).)

Once appointed, a member of an independent or hybrid commission cannot:

- While serving on the commission, endorse, work for, volunteer for, or make a campaign contribution to, a candidate for any elective office of the County;
- Run for elective office of the County if (a) less than five (5) years has passed since the member’s appointment to the commission or (b) the election will be conducted using the boundaries adopted or recommended by the commission;
- Within four (4) years of being appointed, (a) work for an elected official or candidate for any elective office of the County, (b) receive a noncompetitively bid contract with the County, (c) register as a lobbyist for the County; and
- Within two (2) years of being appointed, accept an appointment to a County office.

(Elec. Code, § 23003(e).)

Once an independent or hybrid commission is formed, its members are subject to both the Conflict of

Interest Code and the Brown Act. (Elec. Code, §§ 23003(g), (h).)

**C. The Board Should Adopt a Final Map No Later than November 15, 2021.**

Regardless of which method the Board chooses to draw the Supervisorial district boundaries, the final map must be adopted 174 days before the June 7, 2022 Statewide Direct Primary Election, which is December 15, 2021. (Elec. Code, § 21501(a)(2).) In reality, this deadline is arguably November 15, 2021 if the Board adopts the final map by ordinance, which generally takes effect 30 days after approval.

If the Board fails to adopt a final map by the statutory deadline, the San Mateo County Superior Court establishes the district boundaries at County cost. (Elec. Code, § 21509.)

**D. State Law Requires Significant Public Outreach Before Adopting the Final Map.**

Before adopting the final map, a minimum of four (4) public hearings must be held, at least one of which *before* drawing the draft map and at least two of which *after* drawing the draft map. (Elec. Code, § 21507.1(a).) At least one of the required four public hearings must occur on a weekend or after 6:00 pm on a weekday. (Elec. Code, § 21507.1(b).) One of the public hearings may be in the form of a public workshop conducted by County staff or a consultant. (Elec. Code, § 21507.1(e).) Further, the Board must take a number of steps to encourage residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting process. (Elec. Code, § 21508(a).) Those steps include:

- Outreach to media organizations, including those that serve minority communities;
- Outreach to good government, civil rights, civic engagement, and community groups or organizations that are active in the County, including those active in language minority communities, and those that have requested to be notified concerning county redistricting;
- Live translation of a public hearing (or workshop) if requested 72 hours in advance;
- Online publication of all public hearings (or workshop) at least five (5) days in advance;
- Online publication of a draft map least seven (7) days before being adopted as a final map;
- Receipt of maps or testimony from the public (both in writing and electronically);
- Making available recordings or written summaries of each public hearing (or workshop); and
- Establishing, and maintaining for at least 10 years after the adoption of new Supervisorial district boundaries, an internet web page dedicated to redistricting.

**FISCAL IMPACT:**

There is no direct fiscal impact associated with acceptance of the presentation on Supervisorial redistricting requirements and discussion and/or action regarding establishment of the County's redistricting process. The process itself will involve use of County time and resources yet to be determined.