

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Carol Ann Carter; Monica Parrilla;
Rebecca Poyourow; William Tung;
Roseanne Milazzo; Burt Siegel;
Susan Cassanelli; Lee Cassanelli;
Lynn Wachman; Michael Guttman;
Maya Fonkeu; Brady Hill; Mary
Ellen Balchunis; Tom DeWall,
Stephanie McNulty and Janet
Temin,

Petitioners,

v.

Veronica Degraffenreid, in her
official capacity as the Acting
Secretary of the Commonwealth of
Pennsylvania; Jessica Mathis, in
her official capacity as Director for
the Pennsylvania Bureau of
Election Services and Notaries,

Respondents,

Phillip T. Gressman; Ron Y.
Donagi; Kristopher R. Tapp;
Pamela Gorkin; David P. Marsh;
James L. Rosenberger; Amy
Myers; Eugene Boman; Gary
Gordon; Liz McMahon; Timothy G.
Freeman; and Garth Isaak,

Petitioners,

v.

CASES CONSOLIDATED

No. 464 M.D. 2021

No. 465 M.D. 2021

**PROPOSED INTERVENORS-
PETITIONERS' ("CITIZEN-VOTER
INTERVENORS") EXHIBIT LIST**

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Intervenors-Petitioners:

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Veronica Degraffenreid, in her
official capacity as the Acting
Secretary of the Commonwealth of
Pennsylvania; Jessica Mathis, in
her official capacity as Director for
the Pennsylvania Bureau of
Election Services and Notaries,

Respondents,

Leslie Osche, Kim Geyer, Michael
T. Slupe, Candee Barnes, Thomas
Reep, Brandy Reep, Kenneth
Lunsford, Tammy Lunsford, James
Thompson, Pamela Thompson,
Joseph Renwick, Stephanie
Renwick, Louis Capozzi, David
Ball, Mary E. Owlett, Kristine Eng,
Justin Behrens, James P.
Foreman, Matthew J. Stuckey,
Anthony J. Luther, Linda C.
Daniels, Jeffrey Piccola, James
Vasilko, Jay Hagerman, and Evan
P. Smith,

Proposed Intervenors-Petitioners,

v.

Veronica Degraffenreid, in her
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Respondents.

PROPOSED INTERVENORS-PETITIONERS' EXHIBIT LIST

AND NOW, comes Proposed Intervenor-Petitioners, Citizen Voter Intervenor, by and through their undersigned counsel, hereby submit the following list of Exhibits pursuant to this Court's Order dated January 4, 2022:

1. Citizen Voter Intervenor – 1: Updated Preliminary Congressional Plan, updated December 15, 2021.

2. Citizen Voter Intervenor – 2: "My fair map", submitted by Thomas Huck of Berwyn, Pennsylvania on December 17, 2021 at <https://portal.pennsylvania-mapping.org/submission/p7674>.

3. Citizen Voter Intervenor – 3: Letter to Speaker and Majority Leader of the Pennsylvania House of Representatives dated December 28, 2021 from the Office of the Governor of the Commonwealth of Pennsylvania.

4. Citizen Voter Intervenor – 4: Pennsylvania Redistricting Advisory Council – Redistricting Principles.

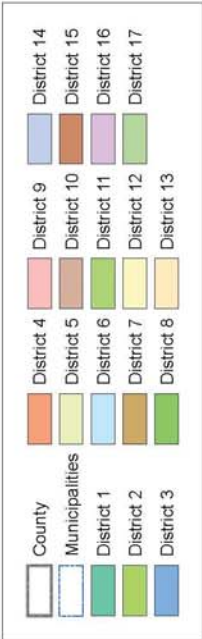
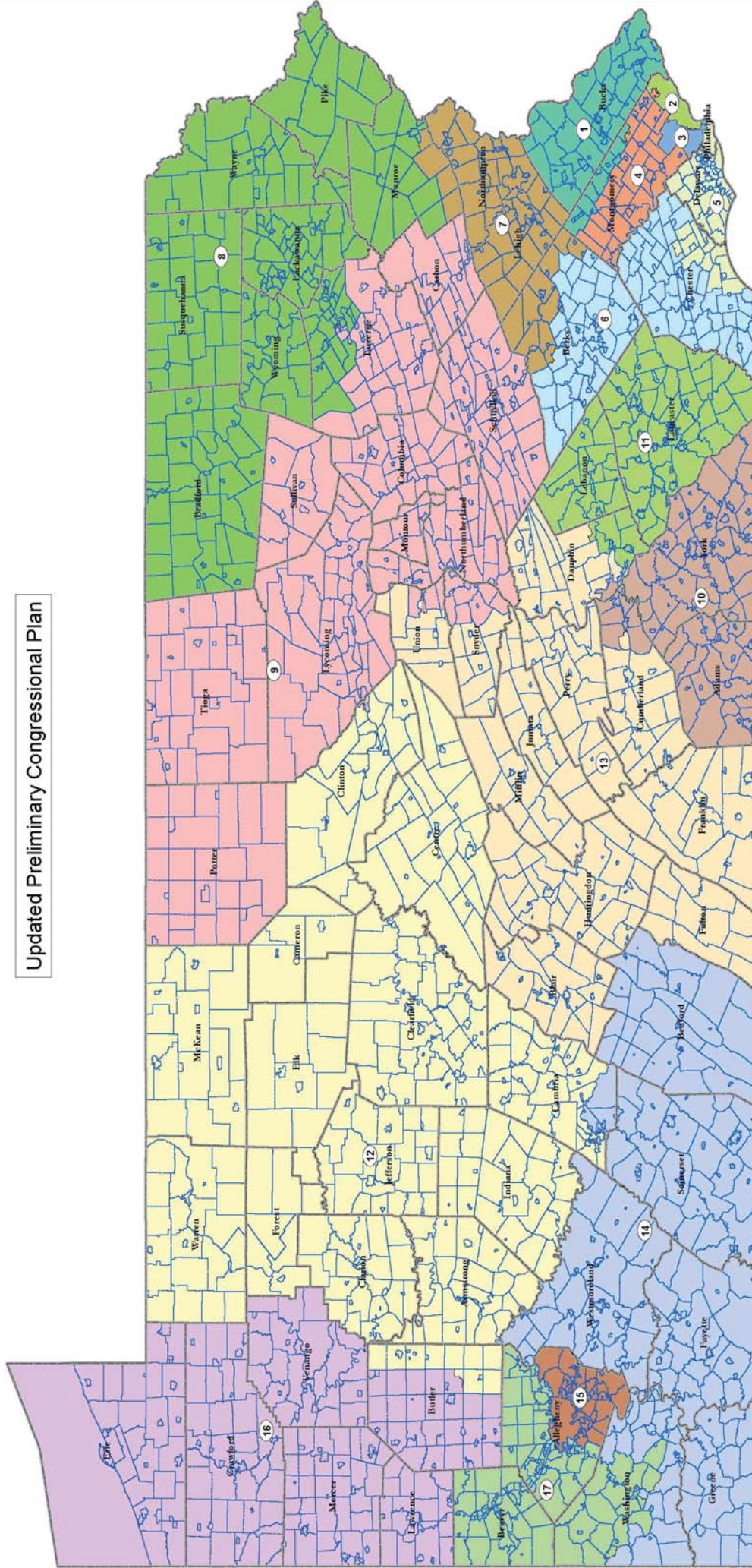
Respectfully submitted,

**DILLON, McCANDLESS, KING,
COULTER & GRAHAM, L.L.P.**

By: /s/ Thomas W. King, III
Thomas W. King, III
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*Counsel for Petitioners and Special
Counsel to the Amistad Project of the
Thomas More Society.*

Updated Preliminary Congressional Plan



Basic Info

Submitter: Thomas Huck

Location: Berwyn

Submitted on: 12/17/2021

Type: plan

Congressional Districts

D: p7674

Tags

More Info

To balance local representation and overall partisan fairness, I compactly combined communities of interest, splitting downtown Pittsburgh and breaking away Harrisburg, York, and Lancaster from their hinterlands to create competitive districts that can capture the region's preferences better than naively compact districts.

Map

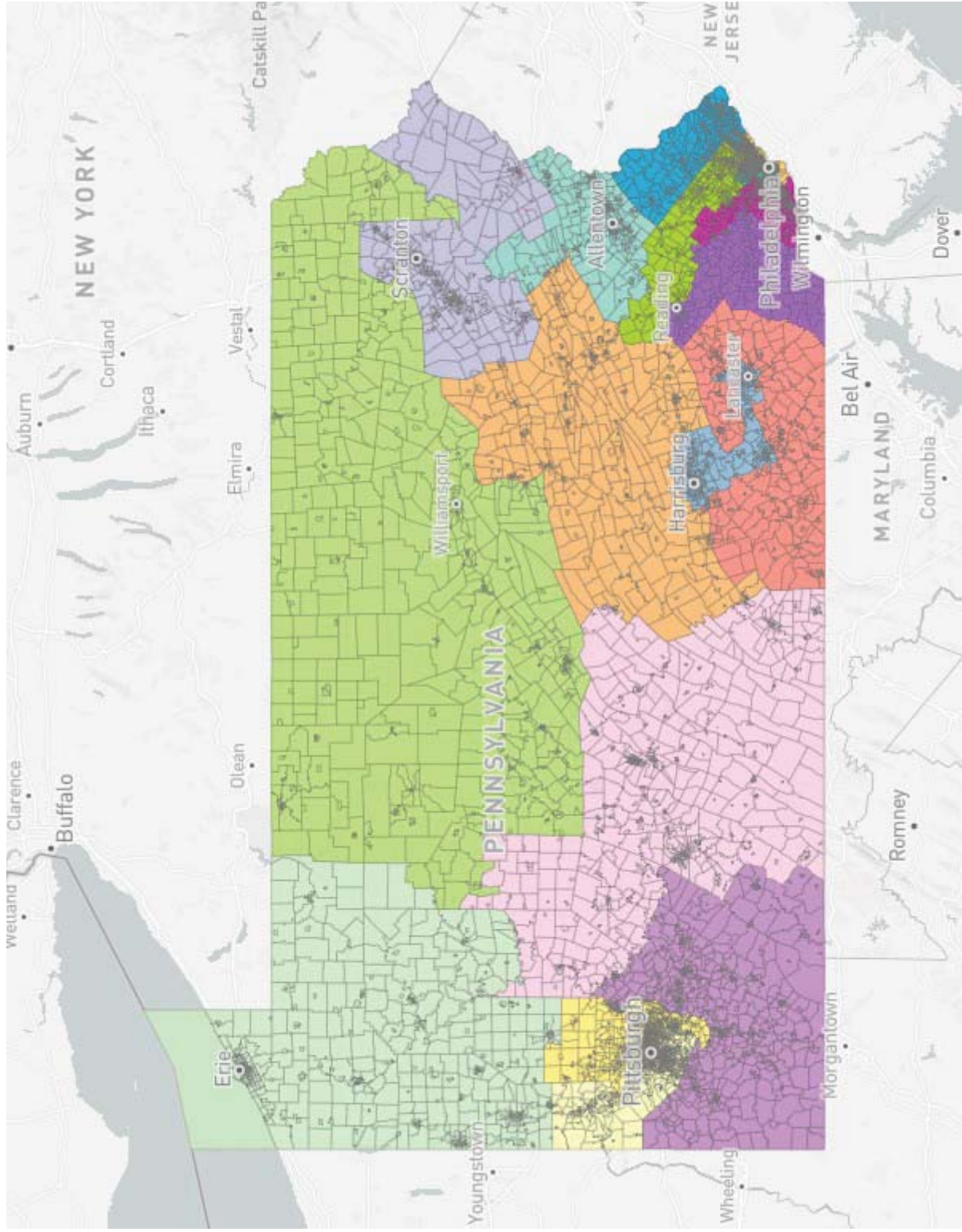
You can pan and zoom in the embedded map with your mouse or the +/- buttons.

[View in Districtr](#)

(To see statistics on this map, or to modify it yourself.)

[Proceed to Submit a Comment](#)

Comments & Feedback





COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR

December 28, 2021

The Honorable Bryan Cutler
Speaker
Pennsylvania House of Representatives

The Honorable Kerry Benninghoff
Majority Leader
Pennsylvania House of Representatives

Dear Speaker Cutler and Leader Benninghoff:

I write to publicly share my review of the House Bill 2146, Printer's Number 2541 map passed by the House State Government Committee on December 15 by a 14-11 vote, with one Republican member joining Democrats in opposing approval of the map. Before and after that vote, I have been asked to negotiate a map with Republicans behind the scenes. Instead of conducting negotiations in this way, I intend to provide my review of proposed maps in a public forum, so that members of the General Assembly, as well as the public, can understand my evaluation process.

Earlier this year, in preparation for the redistricting cycle now fully under way in Harrisburg, I convened a Pennsylvania Redistricting Advisory Council made up of six members with expertise in redistricting, political science and mapmaking, to establish a set of Principles to help guide my review of maps considered and ultimately passed by the General Assembly.

The Council met numerous times, and subsequently held a series of eight in-person public listening sessions across the state, as well as a virtual public listening session, to take [public feedback](#) on the Principles and the redistricting process. The [Principles](#) were finalized and made public in late November and consist of guidance for compliance with legal requirements, such as ensuring that population deviations between districts comply with the Constitution, as well as guidance to ensure that communities of interest are maintained, representation is fair, and that the public can participate meaningfully in the process.

The House Bill 2146, Printer's Number 2541 map does not comply with the Principles outlined by the Redistricting Advisory Council. First, the difference in population between the largest and smallest district in the HB 2146 map is nearly 9,000 people. While I believe that perfect population equality should be balanced with other goals such as maintaining communities of interest, the deviation in the HB 2146 map may be successfully challenged as unconstitutional.

This significant population deviation is the result of last-minute changes made to the map submitted to the House State Government Committee by Lehigh County resident Amanda Holt and selected by Chairman Grove. The deviation among districts in Holt's submitted map was 1 person.

When Republican members of the House State Government Committee objected to aspects of the Holt map, Chairman Grove quickly abandoned the pretext of a citizen-selected map and redrew lines in ways that completely undermine the principles that motivated Holt's map in the first place. The result is a highly skewed map.

Second, the revised map splits multiple communities of interest, including splits in Luzerne, Dauphin, Philadelphia and Chester counties that do not appear to be motivated by compelling legal principles, but rather by a desire to make districts more favorable to Republican candidates.

Third, the Council also recommended that I review proposed maps to determine whether their expected performance is proportional to statewide voter preference. The HB 2146 map falls short on this basic measure of partisan fairness, giving a structural advantage to Republican candidates that far exceeds the party's voter support. A comparison of the HB 2146 map to prior election results and to neutrally drawn maps, using rigorous mathematical methodology, has demonstrated that the HB 2146 map would consistently deliver a disproportionate number of seats to Republican candidates when compared with Pennsylvania voters' preferences. This appears to be the result of intentional line-drawing choices that favor Republican candidates.

Fourth, the manner in which Chairman Grove has conducted the recent steps of this crucial process has been disgraceful. Despite his promise to conduct the "most open and transparent congressional redistricting process in PA history," it is not clear that he consulted with even the Republican members of his own Committee prior to selecting the Holt map -- much less the Democratic members, who have been completely cut out of the process. And despite Chairman Grove's attempt to make up a narrative as he goes, there is no explanation for the changes that were made, beyond the fact that some of them seem to correlate with complaints aired by members of his Committee when the original map was released.

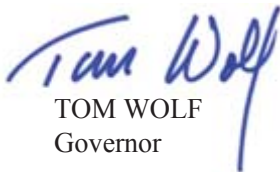
Finally, I have significant concern about the timeline for the final passage of this map. As Acting Secretary Degraffenreid noted in a June 28, 2021 letter to the leaders of the four legislative caucuses as well as the Chair of the Legislative Reapportionment Commission, the Department of State and county boards of elections have historically needed at least three weeks to prepare the Statewide Uniform Registry of Electors ("SURE") to facilitate the nomination petition process, which is statutorily mandated to begin on February 15, 2022.

As a result, the Acting Secretary urged in June that it "would be ideal for the Department to receive an approved final legislative reapportionment plan that has the force of law no later than January 24, 2022." Both the House and Senate currently have four voting session days scheduled in January 2022, including the 24th. This is an extraordinarily compressed schedule for passage of a congressional map, presentment for my review, and resolution of any legal challenges which may be brought, and further increases my concerns about the transparency with which this process is being conducted. It is not clear why the General Assembly did not move the process along more quickly despite an abundance of time to do so.

In sum, the people of Pennsylvania are looking for a fair election map drawn in an open and honest way. They neither want nor deserve a map drawn by self-serving politicians looking to feather their own nests along with those of their political friends. They deserve better and so does our democracy.

When it comes to drawing election maps, the Constitution invites us to do what we can to make sure the election process is a fair one. It is not an invitation to make cynical deals aimed at diminishing the importance of the vote. It is a recurring test of our commitment to the core principles of a healthy democracy. It is a test that HB 2146 fails.

Sincerely,



TOM WOLF
Governor

CC: The Honorable Joanna McClinton, Democratic Leader, Pennsylvania House of Representatives
The Honorable Seth Grove, Chair, House State Government Committee
The Honorable Scott Conklin, Democratic Chair, House State Government Committee



Pennsylvania Redistricting Advisory Council

Redistricting Principles

Under existing state law, Pennsylvania's congressional districts are drawn by the General Assembly and passed as a regular statute, subject to veto by the Governor. On September 13, 2021, Governor Wolf issued Executive Order 2021-05 establishing the Pennsylvania Redistricting Advisory Council and charging the Council with developing recommendations for the Governor in evaluating a congressional district map passed by the General Assembly.


The Council has identified three types of principles that it believes the Governor should adopt in determining the fairness and propriety of any proposed congressional map presented by the General Assembly. The first are legal principles, drawn from settled constitutional and legal requirements, that serve as a minimal floor of protection against improper maps. Second are principles of representation, three in particular, as described below, that are crucial to assuring equal representation and fairness in a resulting map. Finally, there are procedural principles that should be in place to ensure that Pennsylvania's congressional districts are drawn through a fair and transparent process.

Legal Principles

As an initial step in analyzing a proposed congressional map, the Council believes that the Governor should evaluate the map's fidelity to traditional neutral criteria that form a "floor" of protection against the dilution of votes in the creation of districts. The Free and Equal Elections Clause of the Pennsylvania Constitution requires that each congressional district be composed of compact and contiguous territory and minimize the division of political subdivisions as practicable.

The Pennsylvania Supreme Court has noted that the goal is to create "representational districts that both maintain the geographical and social cohesion of the communities in which people live and conduct the majority of their day-to-day affairs." In addition, any proposed map must comply with the requirements of federal law, including most specifically, the constitutional requirement to maintain population equality among congressional districts and the provisions of the Voting Rights Act as they apply in Pennsylvania. *These federal and state legal principles require that, in evaluating a proposed Congressional map, the Governor ensure that these legally mandated elements are complied with, along with other principles noted below.*

- Maintenance of population equality among congressional districts refers to the principle that that each district should be as nearly equal in population as practicable. As a result of the 2020 Census, the ideal Congressional district in Pennsylvania will contain 764,865 residents. *In evaluating a map, the Governor should ensure that the deviations in populations between districts comply with the requirements of the Constitution.*

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- Assurance of contiguity refers to the principle that all territory within a district connect to the rest of the district. *In evaluating a map, the Governor should ensure that all parts of the district are in contact with another part of the district and should disfavor any proposed map in which territory is only connected at a narrow single point.*
 - Maintaining compactness refers to the principle that the boundaries of a district should not be irregularly shaped or sprawl unnecessarily from a central area. Evaluation of compactness tends to focus formulaically on the relationship of the district's perimeter to its area, or the extent to which the district spreads from a central core. *In evaluating a proposed map, the Governor should prioritize plan level geographic compactness unless dispersion is required to advance another positive districting principle, such as preserving communities of interest or avoiding political-subdivision splits.*
 - Minimization of division of political subdivisions refers to the principle that local political subdivisions—such as counties or, where possible, municipalities and school districts— not be arbitrarily split into multiple districts. *In evaluating a proposed map, the Governor should prioritize fewer subdivision splits unless a division is necessary to preserve a cohesive—and clearly identified—community of interest.*
 - Finally, in certain circumstances, but only in those circumstances, the Voting Rights Act requires the creation of “majority-minority” districts to prevent the denial or abridgement of the right to vote based on race, color, or membership in a language minority. *In evaluating a proposed map, the Governor should independently consider whether the Voting Rights Act requires the creation of proposed majority-minority districts.*

Principles of Representation

Assuming a proposed congressional map from the General Assembly complies with the principles above, the Governor should further evaluate the map to ensure that it does not unfairly dilute the power of a particular group's vote. Essential to this evaluation are three additional principles of representation which contribute to the ultimate fairness of a proposed map: communities of interest should be maintained, the composition of the congressional delegation should be proportional to statewide voter preference, and the map should be responsive to changing voter preference. These principles operate as a further check on the two features of partisan gerrymandering: the splitting of communities of voters across several districts to dilute their voting power (cracking), and squeezing as many voters of one political interest into just one or a few districts, thereby wasting their votes in those districts, which decreases the likelihood of success elsewhere (packing). *In evaluating a proposed map, the Governor should consider the extent to which these principles of representation are met, when compared to other potential maps that could have been drawn.*



- Communities of interest are contiguous geographic areas or neighborhoods in which residents share common socio-economic and cultural interests which the residents of the region may seek to translate into effective representation. Examples of shared interests include those common to rural, urban, industrial or agricultural areas, where residents have similar work opportunities, share similar standards of living, use the same transportation facilities, or share common environmental, healthcare, or educational concerns, among others. In statewide listening sessions held by the Council, Pennsylvanians frequently emphasized communities of interest focused around school districts, colleges, industrial corridors, and commuting patterns, and urged particular attention to emerging communities of interest and demographic groups that are growing in Pennsylvania. While a community of interest may be contained within a single political subdivision, they often extend across borders within a region, and may be better represented by regional planning entities such as Councils of Governments. *In evaluating a proposed map, the Governor should consider the extent to which a map preserves cohesive communities of interest, particularly where failure to do so cannot be easily explained by compelling neutral factors outlined above.*
- Ensuring partisan fairness and proportionality requires that parties have the opportunity to translate their popular support into legislative representation with approximately equal efficiency such that the proportion of districts whose voters favor each political party should correlate to the statewide preferences of the voters. Partisan fairness requires preventing structural advantage from being baked into the map so as to allow one party to more efficiently translate votes into seats in the delegation. *In evaluating a proposed map, the Governor should analyze how it would have performed in a full range of prior statewide elections when compared to other potential maps which could have been drawn. A map with expected performance proportional to statewide voter preference should be favored as comporting with broad principles of fairness.*
- Responsiveness and competitiveness require that there are enough districts “in play” that changes in electoral sentiment can translate into clear changes in the overall composition of the congressional delegation. A competitive district is one in which the electoral outcome is close enough that the district can change with shifting voter preferences. A responsive map is one with enough competitive districts to allow for changes in the composition of the delegation with changes in proportion of votes for the parties. Voters should not be deprived of their choice and a fair opportunity to elect candidates they support. *In evaluating a proposed map, the Governor should analyze how it would have performed in a full range of prior statewide elections and favor a map with districts where partisan swings were reflected in changes in the congressional delegation.*



Principles of Process

Beyond both the floor of protection and the additional checks on a partisan gerrymander endorsed above, it is critical that the map passed by the General Assembly be the result of a process that provides an opportunity for meaningful public input, comment, and participation. In the Council's listening sessions, many participants pointed to the public processes that have accompanied citizen-mapping efforts over the past several months as exemplifying the level of transparency that is expected. Procedural fairness begins with strong engagement with members of the public as to their priorities for the redistricting process, with particular focus on hearing about what ordinary Pennsylvanians identify as their communities of interest.

And when the General Assembly's proposed map is shared publicly, a process of robust public engagement and transparency dictates that there be a public record accompanying the map setting forth why specific decisions were made as they were. For instance, if certain counties were split in the map the public is entitled to know the justification for doing so. Likewise, if the proposed map prioritizes specific communities of interest, the public should be told what those communities are and how they were defined. If majority-minority districts are created, there should be a discussion of the factors that resulted in the minority group's denial of equal opportunity to participate in the political processes. *In evaluating a proposed map, the Governor should disfavor any map that is made public and passed quickly with limited legislative debate or opportunity for public consideration. In addition, the Governor should more closely scrutinize any map that is not accompanied by a public record or narrative which explains the rationale for decisions which were made.*