

## **2021 Redistricting of the Election Districts for the Board of Supervisors and the School Board.**

The Virginia Constitution requires the election districts for local governing bodies to be constituted “as to give, as nearly as is practicable, representation in proportion to the population of the district.” To maintain proportional representation, local governing bodies must consider changing their local election district boundaries in the year after each decennial census. Members of the School Board, other than those elected from the County at large, are elected from the same districts as members of the Board of Supervisors. Accordingly, redistricting will alter their districts as well.

### Legal Principles

Under the Urban County Executive form of government, all members of the Board, except for the elected at-large chairman, are elected from single-member election districts. The Board may have as many as twelve members or as few as six members (including the chairman).

The Equal Protection Clause of the United States Constitution requires states to make an honest and good faith effort to construct legislative districts as nearly of equal population as is practicable, but the Constitution does not demand mathematical perfection. Deviations from strict population equalization in election districts are allowed to accommodate traditional redistricting principles, including: (1) compactness; (2) contiguity; (3) preservation of political boundaries, e.g., town boundaries; (4) preservation of communities of interest; (5) preservation of existing districts; (6) compliance with the federal Voting Rights Act; (7) preservation of balance among political parties; and (8) avoiding contests between incumbents. Election district lines in Virginia also must follow “clearly defined and observable boundaries.” Finally, when making changes in district boundaries to meet the tests of equitable population distribution among the districts, an Urban County Executive Board of Supervisors must do so “with a minimum disruption of the then existing district pattern of service.”

The U.S. Supreme Court has ruled that a population deviation of less than ten percent among state and local election districts will be presumed constitutional, although the presumption can be overcome by evidence of improper motivations. In its 2020 Session, the General Assembly adopted criteria for Congressional and General Assembly districts that allow a deviation of no more than five percent difference between the population of the largest state legislative district and that of the smallest one.

## The Redistricting Process

In 2011, the Board initiated redistricting by adopting a resolution that established the Board's goals and the criteria and policies that it would follow to accomplish the redistricting, and by approving the process it would follow.

For at least the last three redistricting efforts, the Board appointed an advisory citizen committee. Those committees included representatives from each district and from various community organizations and other interest groups. The committees met in a series of evening meetings that were open to the public and prepared numerous redistricting plans for the Board's consideration. The Board also solicited proposals and accepted proposed plans from the public generally.

Virginia law requires the Board to adopt its redistricting plan by ordinance. Before enacting any changes, the Board must publish notice in the newspaper once a week for two successive weeks of its intention to adopt changes.

An ordinance to accomplish a locality's decennial redistricting takes effect immediately. Members of the Board of Supervisors and the School Board who are in office on the effective date of the redistricting ordinance complete their terms of office, representing the district as then constituted in the ordinance. Other County officers who are required to be appointed by district, such as planning commissioners, also complete their terms of office, regardless of loss of residency in a particular district due to redistricting.

## Schedule of Redistricting Events

The critical first step in redistricting is getting the Census data. Virginia law requires the Board to use the most recent decennial population figures from the United States Bureau of the Census, as adjusted by the Division of Legislative Services. When Virginia will receive the 2020 Census data is currently unknown.

Federal statute requires the Census Bureau to provide the Census data needed for redistricting to the states no later than March 31, 2021. The Census Bureau suspended its field data collection activities in March 2020 because of the COVID-19 pandemic and announced that it intended to extend the window for field data collection and self-response. At the same time, the Census Bureau asked Congress to delay by four months the deadlines imposed by federal law, which would allow for redistricting data to be delivered to the states no later than July 31, 2021. Legislation was introduced but it stalled in the Senate. As of now, the statutory deadlines remain unchanged. In August, the Census Bureau announced it would complete the Census according to the statutory deadlines after all. However, the Census Bureau's reversal has been challenged in a federal lawsuit. In early September, the U.S. District Court for the Northern District of California issued a Temporary Restraining Order prohibiting the Census Bureau from taking actions that would shorten the timelines

from those announced in March (by which schedule Virginia would receive the Census data no later than July 31, 2021). Last week the court extended the Temporary Restraining Order until at least today, when the court will hold a hearing on whether to issue a Preliminary Injunction.

Once Virginia receives the U.S. Census data, Virginia Code § 24.2-314, enacted in 2020, requires the Division of Legislative Services (DLS) to adjust the data of persons incarcerated in federal, state, and local correctional facilities before it is used for redistricting. The law requires DLS to make the adjusted Census data available no later than 30 days after DLS receives the data from the Census Bureau. The General Assembly must use this adjusted population data for purposes of redistricting and reapportionment of congressional, state Senate, and House of Delegates districts, and the Board, likewise, must use the adjusted data for redrawing local government election districts.

The timing of the Board's redistricting also depends on when the district lines for Virginia's State Senate and House of Delegates districts, and possibly its Congressional districts, are redrawn. The General Assembly districts are likely to be redrawn promptly because all House of Delegates seats are on the ballot in 2021. Redistricting of Congressional seats may be deferred because Congress is not on the ballot until 2022. State law requires the Board to adjust precinct boundaries to eliminate any split precincts in the various election districts. When the Board must take that action depends on when the bodies responsible for redrawing districts complete their redistricting work.

*Who* will redraw the districts for the House of Delegates, state Senate, and Congress will not be known until after the November General Election. During its 2020 Session, the General Assembly enacted legislation proposing a Constitutional amendment that would transfer the power to draw congressional and state legislative districts to a 16-member redistricting commission composed of eight legislators and eight citizens. The measure will be decided by the voters in the November 2020 General Election.

Given the uncertainty about when the County will receive the adjusted Census data and when the redistricting of the House of Delegates, state Senate, and Congress will be complete, staff cannot propose a firm schedule of events at this time. For present planning purposes, staff has prepared the following schedule of major events.

## TENTATIVE SCHEDULE OF REDISTRICTING EVENTS

Event	Date
Census Day	April 1, 2020
Board Legislative Committee discussions	September 22, 2020 November 24, 2020
Board adopts Redistricting Resolution, general redistricting process, and staffing arrangements	
Board appoints members of advisory citizen committee	
County receives Census data as adjusted by Virginia Division of Legislative Services	Unknown
Advisory citizen committee meets, prepares proposed plans for Board consideration	
Advisory citizen committee presents report to Board with alternative plans for Board consideration; Board authorizes advertisement of public hearing on proposed plans	
Board holds public hearing on proposed plans	
Board decision and adoption of redistricting ordinance	
Redistricting of Virginia's State Senate, House of Delegates, and Congressional districts is complete	Unknown
Last day state law allows changes to precincts or polling places for November election	September 3, 2021
Election Day for Governor, Lieutenant Governor, Attorney General, and House of Delegates	November 2, 2021

Attachments:

1. 2010 Resolution of the Board of Supervisors
2. 2010 List of Community Representatives on Advisory Citizen Committee

1359640\_6.doc

**- RESOLUTION OF THE BOARD OF SUPERVISORS -**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway in Fairfax, Virginia, on Tuesday, November 16, 2010, at which meeting a quorum was present and voting, the following resolution was adopted in public session.

**Whereas**, Fairfax County, Virginia, is required to consider reapportionment every ten years; and

**Whereas**, the U.S. Census Bureau is expected to soon release the 2010 Census that will indicate that there have been sufficient population changes within Fairfax County, Virginia, to warrant a reapportionment of the Board of Supervisors of the County; and

**Whereas**, the Board of Supervisors has the power to apportion the election districts of the governing body in accordance with federal and state laws; now therefore it be,

**Resolved** that the Board of Supervisors supports and adopts the following;

**Goal**

The goal for the Fairfax County Board of Supervisors is to reapportion the governing body of the County during calendar year 2011. As part of that process, the Board will consider the existing election districts for the members of the Board and proposed revisions to those districts. That process will be completed and approved in accordance with federal and state law.

**Criteria**

1. The governing body of the County must be composed of one elected at-large chairman and a fixed number of members who are elected from single-member districts.
2. The Board will adopt election districts composed of contiguous and compact territory and which shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district.
3. The Board will adopt election districts with clearly observable boundaries, as Virginia law defines that term.
4. The Board will comply with the federal Voting Rights Act of 1965, as amended.

**Policies**

1. The Board will consider plans that maintain nine election districts as well as any other plans that propose a lawful number of election districts.
2. The Board will not consider election district proposals which would result in a maximum population deviation between election districts that is ten percent or greater.

3. The Board will consider existing geographical and political boundaries, which shall include, but not be limited to, the utilization of incorporated town boundaries.

4. The Board will consider established communities of interest that shall include, but not be limited to, geographic areas with similar characteristics such as ethnic, social, and cultural interests. Present and planned use of land and public facilities are relevant to defining communities of interest.

5. The Board will consider existing districts and incumbent representation on local public bodies that may be affected by reapportionment.

6. The Board encourages plans that are based on existing voting precinct boundaries, and where changes are necessary, precincts shall be divided along Census block boundaries.

7. The Board encourages interested persons to submit reapportionment plans to the County. Proponents of any plan shall submit appropriate maps of proposed election districts and statistical summaries and analyses. The statistical analyses shall show the population deviation between election districts and any retrogressive effect on racial or language minority groups.

8. The Board encourages interested persons to submit proposals for amending or revising any reapportionment plan that has been submitted to the County. Proponents of any such amendment or revision shall submit appropriate maps showing the proposed changes and statistical summaries and analyses. The statistical analyses shall show the population deviation between election districts and any retrogressive effect on racial or language minority groups.

9. Notwithstanding Policies 7 and 8 above, the Board encourages public comments or recommendations from interested persons on any plan or change to plan that has been submitted.

10. All of the foregoing criteria shall be considered in the reapportionment process, but population equality among districts and compliance with federal and state constitutional requirements and the federal Voting Rights Act of 1965, as amended, shall be given priority in the event of conflict among the criteria.

**GIVEN** under my hand this 16<sup>th</sup> day of November 2010.



Nancy Vehs  
Clerk to the Board of Supervisors

## Advisory Citizen Reapportionment Committee

List of community representatives to be appointed by the Board of Supervisors.

### Representation

At-Large (2 members)

Braddock

Dranesville

Hunter Mill

Lee

Mason

Mount Vernon

Providence

Springfield

Sully

Democratic Party

Republican Party

Fairfax County Chamber of Commerce

Federation of Citizens Associations

League of Women Voters

African-American Community

Hispanic Community

Asian/Pacific Islander Community