ClassACT Primer on Gerrymandering SUMMARY

Gerrymandering occurs when the state legislators from one political party draw voting districts in a distorted manner, gaming the system to gain an unfair partisan advantage over their opponents. The net effect of gerrymandering is to undermine the power of elections in our democracy.

Gerrymandering allows politicians in power to make elections less competitive.

Gerrymandering activities can be used to ensure a safe seat for an incumbent. Knowing that they have a comfortable supermajority in their district can cause lawmakers to be much less likely to compromise in the legislative body to which they are elected, leading to more gridlock, a symptom most would agree is on the rise in our legislatures and Congress. The result is a lack of incentive for the representatives to compromise, since they need not cater to the minority point of view in their district, leading to impasses and ineffective government. The offenders are not all on one side of the aisle—the worst offenders include states whose legislatures are controlled by Democrats (Maryland) or Republicans (North Carolina).

Gerrymandering can happen in any democracy, but what makes it so insidious in American democracy is that the people drawing the boundaries are mostly partisan groups, as opposed to judicial or nonpartisan groups selected for that purpose. Not all the motives behind a district's appearing gerrymandered are nefarious or even intentional. One of the goals of creating reasonable district lines is to create communities of interest so they can be properly represented. Another example might be natural population concentrations.

HOW IT WORKS

Gerrymandering makes the votes of the favored group count more than those of other voters.

There are two simple ways to do this: packing and cracking. "Packing" puts excess members of the group being disenfranchised into a single district, where they become the overwhelming majority, even though only more than 50% % is needed to win, thus "wasting" some of their votes. "Cracking" splits a majority group across multiple districts, causing it to fail to achieve a majority in any of those districts.

If packing leads to votes in excess of 50% in a district, your party wins with those extra votes being wasted. And if cracking spreads your party's votes into districts where it loses and cannot elect any of its candidates, those votes are also wasted.

WHY THERE'S HOPE

The same computing power that makes it easier to create gerrymandered districts now also makes the detection of such gerrymandering in a plan more detectable and, most importantly, quantifiable. We discuss some of these quantifiable metrics such as compactness, the efficiency gap, seats-to-votes curves, and declination. When voting districts are drawn fairly, the legislature reflects the composition of the electorate and citizens' votes have equal weight. Politicians must pay attention to the various constituencies they represent, rather than focus on a narrowly selected group of voters. So fairer maps should help restore trust in the system. These changes might also lead politicians to campaign on policies that will appeal to more voters in the center, not just to a highly partisan faction within one party.

WHO CONTROLS THE PROCESS?

The Redistricting Landscape: 50 States, Many Approaches: Redistricting in the United States is more complicated than in most other western democracies, which have centralized their electoral systems and rules. In most states, there are two sets of electoral maps, one for state offices and one for Federal offices. Each state—*not* the Federal government—determines how it will conduct its elections for state, local *and* Federal offices, including how it will draw electoral maps.

Congress has the power to mandate standards for conducting elections for *Federal* lawmakers, that is, Representatives and Senators, but it has not prescribed any such standards, except to prohibit racial gerrymandering. So as long as a state's electoral districts maps are not based on racial discrimination, it has great latitude in choosing how to draw up maps. In the most highly gerrymandered states, such as Florida, Georgia, North Carolina, Maryland, Wisconsin, Pennsylvania, and Texas, the state legislature controls redistricting.

The Best Solution: An Independent Commission: Though in most cases legislatures draw the electoral maps, some states have set up independent commissions to make the redistricting process less partisan. California was a trailblazer—in the California framework, legislators have *no* role in choosing the commission members. Instead, citizens apply to serve, and an independent agency reviews their applications. The California system requires that the membership be balanced on a partisan basis.

Some states use a bi-partisan or hybrid commission, which includes both legislators and citizens who do not hold office. With appropriate safeguards, this approach may be a useful compromise for states where adopting the independent commission system is not politically feasible. In some states, advisory commissions draw up maps and submit them to the legislature for approval.

Federal Redistricting Reform Proposal:

In January 2021, the House of Representatives passed the "For The People Act", which is now before the Senate. The Act would mandate sweeping reforms in voting procedures for Federal elections. The Act would direct each state to establish an independent commission for drawing Congressional district maps, which should eliminate gerrymandering in Congressional elections. In addition, the Act would make voting easier, and it would ban various voter suppression techniques.

HOW DO WE CHANGE THE STATUS QUO?

The Virginia Reform, A Possible Model for Battleground States: For states where creating an independent commission is not politically feasible, we consider Virginia's redistricting reform a useful model. Virginia's approach is a compromise, but it should result in a major improvement over the status quo. Previously, the state legislature controlled the redistricting, which led to a high degree of partisan gerrymandering.

Under Virginia's new system, a bi-partisan or hybrid commission, equally composed of legislators and citizens, will draw the maps. The commission will submit the maps to the legislature for approval. However, the legislature can only hold an up-or-down vote; it cannot revise the maps. This approach includes checks and balances to ensure that the process will be fair to both political parties and that it will reflect the views of a broad variety of constituencies.

Can We Rely on the Courts End Gerrymandering? We cannot rely on the Federal or state courts to eliminate gerrymandering unless it targets racial groups. Racial gerrymandering violates the 14th Amendment and the Voting Rights Act of 1965, and Federal courts have struck down redistricting plans that discriminate against minorities.

The Supreme Court of the United States has chosen not to adjudicate disputes over *partisan or political gerrymandering*, and its position is binding on lower Federal courts. State courts can overrule gerrymandering, but they may be partisan since in many states, judges are elected. Unlike Federal judges, they do not have life tenure and have to run for re-election every few years.

Judicial Gerrymandering: In some states, politicians are trying to make the courts more partisan by changing the procedures for electing judges. They are attempting to redraw the districts where the judges may run, to increase the chances of electing judges from their political party.

WHAT CAN I DO TO HELP NOW?

In battleground states with a history of gerrymandering, changing the status quo will require a long-term effort. Join an existing organization that is working hard to achieve reforms. Some good ones are: **Fair Maps, The League of Women Voters, Common Cause, and All On the Line.** (Fair Maps groups are organized by state; we provided the link to Virginia's as an example).

If your state has recently adopted reforms, volunteers can play a crucial role in monitoring officials' progress in implementing the new system. Another good way to help would be lobbying for the passage of the For the People Act, which would mandate nationwide standards for drawing Congressional district maps.

ORGANIZE A GRASSROOTS CAMPAIGN

Here is a potential approach you can use to build support for reform at the state level or to push for enactment of the "For the People Act". Since the battleground states do not allow ballot initiatives, the only way to change the status quo is by enacting state legislation. So you will have to convince lawmakers to relinquish at least some of their control over redistricting.

Reformers in Virginia developed an innovative template to win voters' backing for their proposal and pressure lawmakers to pass new legislation. The leaders of OneVirginia2021 recruited volunteers to meet people at polling stations and talk to them about the need to stop gerrymandering. Volunteers emphasized that they were non-partisan and did not care if they were speaking to a Democrat or a Republican. They had two goals: educate voters and generate emails to politicians on the issue.

OneVirginia2021 trained its volunteers to use a quick "elevator pitch." Volunteers typically spent two to three hours at a polling site, persuading voters to email their state representatives. The volunteers transmitted the emails immediately, on-site, using Muster software to record voters 'email addresses, building a large database of over 100,000 email addresses they used to stay in touch with voters. OneVirginia2021 also deployed volunteers to the Department of Motor Vehicles, where people waiting in line were happy to chat.

Because the volunteers' time commitment was manageable, their numbers rose over time from 300 to 3,500. Through the campaign, OneVirginia 2021 sent tens of thousands of emails to politicians from voters in their own districts. Many politicians who had initially opposed the measure changed their stance when they realized the depth of popular support for the reform.

Class Achieving Change Together (Class ACT), Inc.