

# Assessment of Draft Ohio Maps

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Let me first thank the commission members for their willingness to serve. I have been watching some of your meetings on online and have admired your service. Second, let me affirm one thing: **this is a hard job**. This small commission with limited staff and many requirements is trying to reinvent what a 148 member legislative body did with 100 years of experience with countless staffers and much fewer requirements.

Recognizing that, I will now proceed to evaluate the maps providing to me. I will use the same labeling as Prof. Jon X. Eguia has in his report.

Map A: <https://districtr.org/plan/13151>

Map B: <https://districtr.org/plan/13209>

Map C: <https://districtr.org/plan/13212>

Map D: <https://districtr.org/plan/13228>

Map E: <https://districtr.org/plan/13232>

Map F: <https://districtr.org/plan/13278>

Map G: <https://districtr.org/plan/13288>

## Summary of Constitutional Priorities

My evaluation will follow Section 13 of the state constitutional amendment, which ranks the following criteria:

13. The commission shall abide by the following criteria in proposing and adopting each plan, in order of priority:
  - (a) Districts shall be of equal population as mandated by the United States constitution, and shall comply with the voting rights act and other federal laws.
  - (b) Districts shall be geographically contiguous. Island areas are considered to be contiguous by land to the county of which they are a part.
  - (c) Districts shall reflect the state's diverse population and communities of interest. Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates.
  - (d) Districts shall not provide a disproportionate advantage to any political party. A disproportionate advantage to a political party shall be determined using accepted measures of partisan fairness.
  - (e) Districts shall not favor or disfavor an incumbent elected official or a candidate.
  - (f) Districts shall reflect consideration of county, city, and township boundaries.
  - (g) Districts shall be reasonably compact.

My evaluation will pass over aspects I know little of and focus more on areas I am more qualified to assess. I also only had time to evaluate priorities a-d.

## 1a. Equal population

*“Districts shall be of equal population as mandated by the United States constitution”*

A failure of a redistricting plan to seek equal population across districts is one of the more common reasons for U.S. Courts to reject it.

How much deviation is too large? *For US House districts*, any deviation that is not necessary. Plans with deviations as low as 0.6984% (Karcher v. Daggett) have been rejected. But in *Tennant v. Jefferson County* the Supreme Court remanded a lower court’s rejection of a state-passed map with a deviation of 0.79% that prioritized minimizing county splits. *For state legislative districts*, the deviation can be larger if justified by state interests.

### **Evaluation:**

Maps A-E and G fail to meet this criteria.

Map F is very close to a deviation the Supreme Court has rejected in the past. I do not think the amendment’s prioritization of equality of population first would allow a deviation that high even if it was necessary for minimizing county splits (ranked 1 vs. 6).

## 1b. Diluting the minority vote

*“and shall comply with the voting rights act and other federal laws.”*

The Voting Rights Act prohibits plans that discriminate on the basis of race or could dilute the minority voting power.

How does a plan dilute a minority vote? If a plan consistently puts the will of minority voters in the minority such that they have less opportunity than a comparable non-minority voter. For instance, if a minority Democrat has less of a chance to elect a Democrat than a white Democrat.

**Evaluation:** Since over 90% of Black voters vote for the Democratic Party, a straightforward way to evaluate possible dilution of minority voting power is to look at whether Black voters are more likely than White voters to be placed in Republican-leaning districts (using 2016 presidential vote). One way to do this is to define a minority district (MD) in this case as districts with greater than 12% (the state average) of Black voters and a non-minority district (NMD) as districts with less than 12%.

The table below compares this metric for each map.

Table 1: Proportion Democrat-Leaning

Map	NMD	MD
A	0.200	0.667
B	0.111	0.833
C	0.111	0.667
D	0.000	0.800
E	0.100	0.800
F	0.091	1.000
G	0.000	0.857

Maps A and C score the lowest, with two-thirds of minority-concentrated districts in lean-Democratic districts, but that is still a better representation score for non-minority districts. Each map gives minority concentrated districts and Black Democratic voters a greater chance to live in a lean-Democratic district than Democratic voters in non-minority districts.

There is no evidence of a map diluting the Black vote, but an analysis by Hispanic or other VRA qualifying

groups may have different evaluations.

## Do you need majority-minority districts?

No. Majority-minority districts are defined as having minorities constituting greater than 50% of its population. This approach helps get minority candidates elected to office, but also increases partisan bias measures because it packed a lot of Democrats in a few districts. And the Supreme Court has in the past allowed maps that did not create majority-minority districts if the map created a sufficient number of districts with significant minority influence.

It is true that minority representatives are more likely to run for office and, thus, win in these districts. But recent research suggests this outcome is much more dependent on the choice of a minority candidate to appear viable. This finding supports the Supreme Court ruling that recognizes majority-minority districts are not the only path to minority influence. Evaluations should consider if minority communities will represent an influential voting block in a sufficient number of districts.

**Evaluation:** Again, looking at Black voters as an example, Map G is the most likely to be scrutinized on this basis since the percent of Black residents is never higher than 32.4% and they may never represent a majority of Democratic voters. Does the 11th district and 6th district provide sufficient influence to an ethnic community that is 12% of the population? Some might argue no. Map F comes the closest to making majority-minority districts, with three containing more than 30%. Minority voters would have a lot of influence in what would be 20% of Ohio's US House districts, but that map may be criticized for packing minority voters into a few districts and giving Republicans an advantage across the state.

## 2 Contiguity

*"Districts shall be geographically contiguous. Island areas are considered to be contiguous by land to the county of which they are a part."*

**Evaluation:** Beyond Prof. Eguia's identification of Map F as non-contiguous, it should be pointed out Put-in-Bay island (Ottawa) and Kelley's Island (Erie) are in two different counties. Under Michigan's definition, Map D barely passes contiguity because it has Kelley's Island and area of Bay View as the sliver of Erie county in the first district that allows it to pass. One example of this concern in Michigan is that Beaver Island is in Charlevoix County because of the ferry line, not the more proximate Emmet.

## 3. Communities of Interest

*"Districts shall reflect the state's diverse population and communities of interest. Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates."*

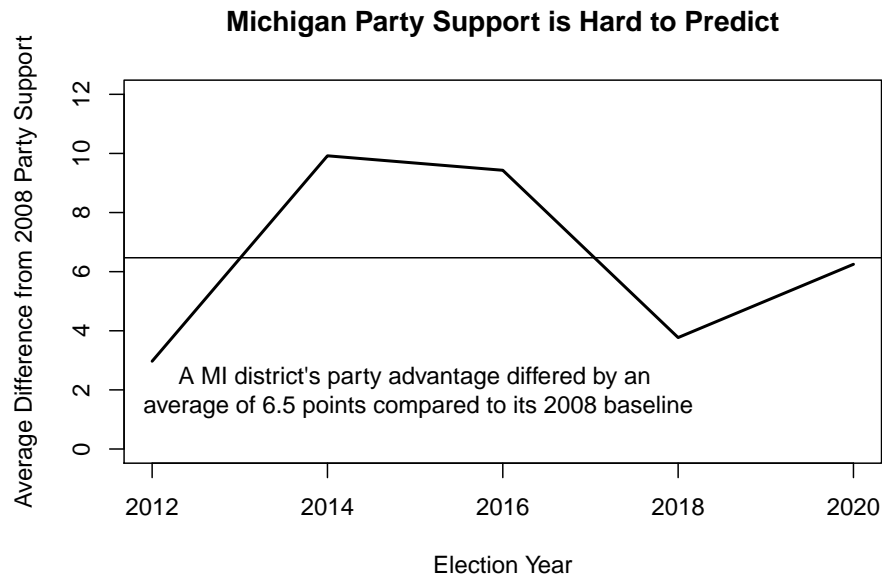
**Evaluation:** It is hard to fail a plan for whether it sufficiently represents a state's communities of interest when a commission is practicing on a different state. But Ohio provides a nice example here. Both the U.S. Federal Government and the State of Ohio recognize 32 counties in Ohio as in the Appalachia region, and identify it as a distinct economic and cultural community. Thus, the current 6th district in Ohio may look like a salamander, but it also represents a distinct community of interest along the Ohio River and hill country of Ohio.

Along these lines, Maps B and D perhaps do the best to "reflect" this community of interest with a district that includes a majority of these 32 counties, whereas F and G are vulnerable to complaints that it splits this distinct region into many districts, thus failing to reflect this portion of the population.

## Partisan Bias

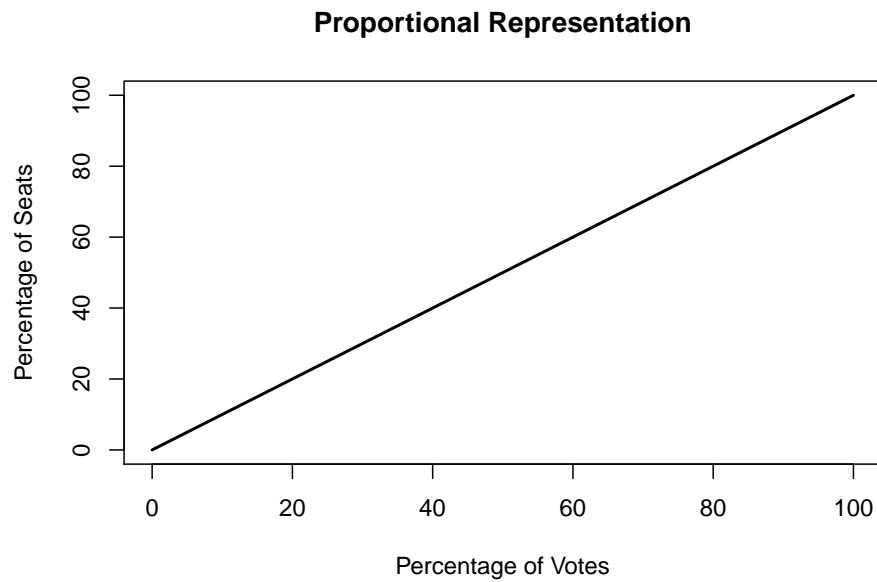
*“Districts shall not provide a disproportionate advantage to any political party. A disproportionate advantage to a political party shall be determined using accepted measures of partisan fairness.”*

**Caution:** Other reports will provide reports based on assuming party support in 2016 (or 2020) will be similar to party support in 2022 and beyond. But party advantage in a district changes a lot over 10 years. How much? On average, the difference is 6.5 percentage points in Michigan. One district’s party support, Michigan’s 10th, changed by over 13 points from 2008 to 2020, going from a competitive district (48% Democrat) to a safe Republican district (34.4% Democrat).

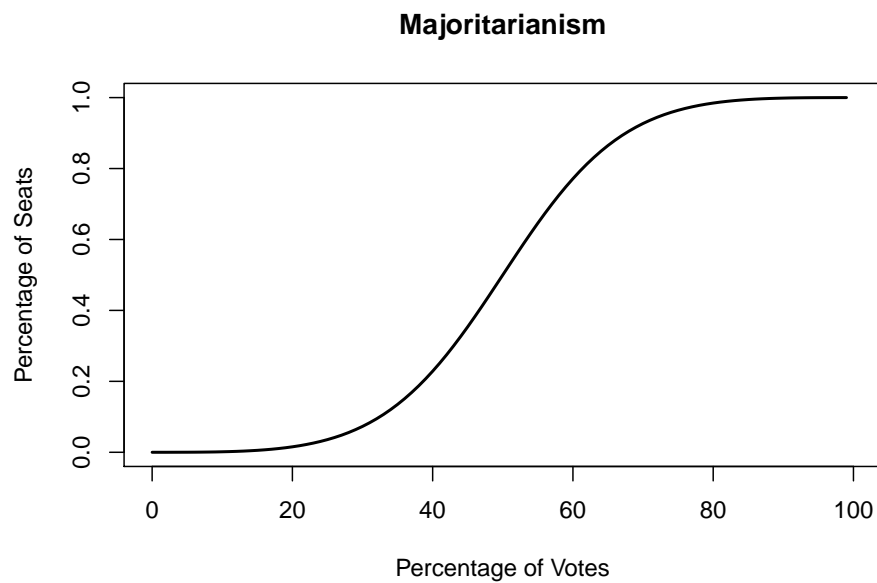


So please be aware partisanship can easily change and party advantage measures should be tested accounting for the possibility of likely change.

How do we evaluate party bias in the face of such changes? And what makes a disproportionate advantage? That’s up to you. Some people implicitly assume proportionate advantage means a 1-1 ratio. A 60-40 partisan split should equal a 60-40 split in representatives.



Direct proportionality is rare and hard to achieve in single member, winner-take-all districts. An easier and more common standard is to seek some form of majoritarianism. The idea here is that the majority party may win more seats than votes, but the proportion of seats to votes is *symmetric* for both parties.



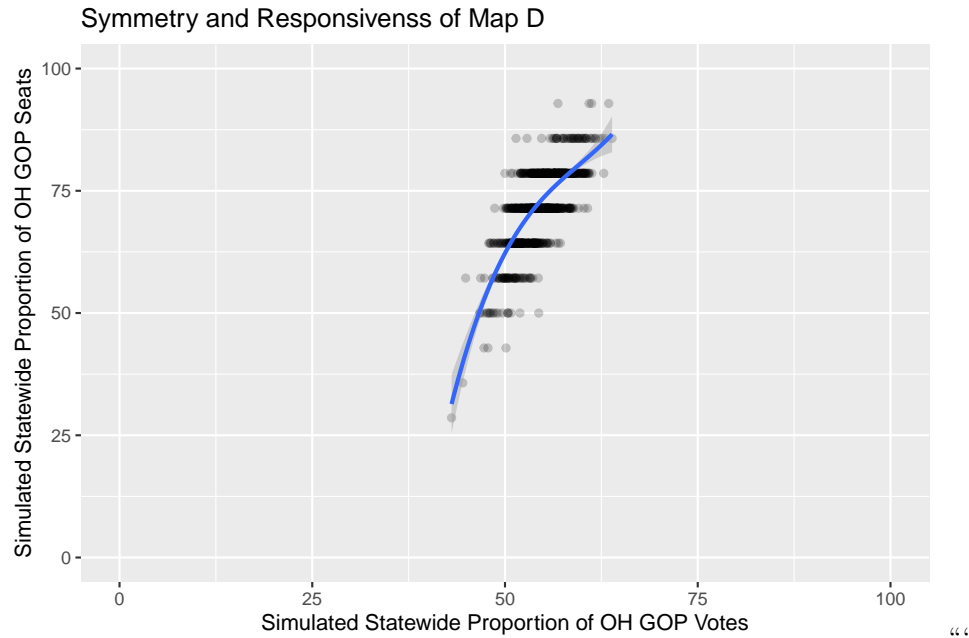
Both of these graphs demonstrate a *partisan symmetry* standard of fairness

- each curve is a monotonic and proportional function of the vote,
- each treats both parties equally when they perform equally.
- i.e., winning 100% of the seats with 55% of the vote is not evidence of partisan bias if that party wins 0% of seats at 45% of the vote.

**Evaluation:** Although the state-wide Republican vote for US President was 54.3% in 2016, most of these

maps have two-thirds of their seats favor Republicans. The question then becomes if Democrats would also be favored to win two-thirds of seats if the vote shifted by 10 points such that the state-wide Democratic vote for US President was 54.3%.

I didn't have time to do this for every map, what follows is a graphical evaluation of Map D simulating 1000 times after two cycles of typical variability in party support.



In this case, even in those cases when Democrats secured 50% of the statewide vote, Map D is expected to grant Republicans nearly 60% of Ohio's congressional districts. This map appears to fail the partisan symmetry standard of fairness.