

How Will The Princeton Gerrymandering Project's Standards Affect Redistricting?

Do the proposed standards affect the process by which single districts are drawn? No. The proposed standards (68 *Stan. L. Rev.* 1263-1321) say nothing about how any given district should be drawn. The standards only concern statewide patterns of districting, because it is on that level that partisan redistricting achieves a net gain of seats.

Would implementation of the Princeton standards change Voting Rights Act precedents? No. Laws and precedents that govern how single districts are drawn (joining communities of interest and other legislative priorities) would be unaffected by the proposed tests. These standards are consistent with Section 2 of the Voting Rights Act, which allows the drawing of "ability to elect" districts (see below).

How would they affect communities of interest? The Princeton standards complement current interpretations of the Voting Rights Act. Race-based standards have moved away from "majority minority" districts, which can lead to voter packing (most recently, *Cooper v. Harris*). The Voting Rights Act now mandates the construction of "ability to elect" districts that lean in a partisan direction, without creating a lopsided result overall. The proposed standards would discourage further partisan overpacking.

Would these statistical standards handcuff legislators? Because the standards deal only with statewide results, legislators will retain their considerable discretion in drawing individual districts. The tests can help judges and reformers block bad statewide acts, but they do not shackle legislators to narrowly-defined districting practices.

How would litigation be affected? Until now, claims of statewide partisan gerrymandering have failed – for example, see *Vieth v. Jubelirer* and *LULAC v. Perry*. A principal sticking point has been the absence of a manageable standard, one that identifies offenses, avoids false alarms, and can be applied in a convenient manner by a court. The proposed standards use century-old statistical principles and can easily and reliably identify egregious offenders.

How many states are potentially affected? Using data from the 2012 election cycle, six states are flagged by at least two of the tests. These states are widely considered by nonpartisan analysts to be partisan gerrymanders. Many states with "ability to elect" districts, including Texas, Florida, and Arizona, are not identified as gerrymanders.

Will these standards lead to a flood of lawsuits? A favorable ruling will lead to lawsuits to rectify gerrymanders. In the 2012 cycle alone, lawsuits were filed challenging Congressional districts in over half of the 50 states. In a preliminary analysis of redistricting schemes examined from 1972 to present, only 16 out of 135 (12%) meet two or more of the Princeton standards for gerrymanders, and dozens more meet at least one standard. Such cases will help create a body of law to crystallize the standards. After that, the presence of standards should deter offenders and potentially reduce lawsuits. Note that the Princeton standards will lead to fewer false-positive alarms compared with alternatives such as the efficiency gap. Whatever standards are used, it will be essential to consider the intent of redistricters and the process by which maps are drawn. Like the Princeton standards, examination of intents will filter out baseless cases, preventing courts from becoming inundated.