

**LEGAL CRITERIA FOR DRAWING  
STATE LEGISLATIVE DISTRICTS IN COLORADO**

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**I. Definitions:**

- a. Reapportionment - Redistribution of representation in a legislative body, especially the periodic reallocation of U.S. congressional seats according to changes in the census figures as required by the Constitution.
- b. Redistricting - To divide anew into districts; specifically : to revise the legislative districts
- c. Ideal district size The total population divided by the number of districts.
- d. Deviation The difference from that ideal district size.
- e. Overall range of deviation The difference in population from the largest to the smallest district expressed as either an absolute or a percentage.

**II. Historical Background**

- a. *Baker v. Carr*, 396 U.S.186 (1962)  
A state statute on apportionment that deprived plaintiffs of equal protection of the laws in violation of the Fourteenth Amendment presented a justiciable constitutional cause of action, and the right asserted was within reach of judicial protection under the Fourteenth Amendment, and did not present a nonjusticiable political question.
- b. *Lucas v. Forty-fourth General Assembly*, 377 U.S. 713 (1964)  
Even though provision approved by voters, provision that apportioned senators on basis other than population was unconstitutional.

### III. What Laws Apply to the Reapportionment Commission's Redistricting

#### a. Federal Law

##### 1. Fourteenth Amendment to the Constitution:

nor shall any state . . . deny to any person within its jurisdiction the equal protection of the law.

*Reynolds v. Sims*, 377 U.S. 533 (1964)

In drawing legislative districts, the "overriding objective must be substantial equality of population among the various districts, so that the vote of any citizens is approximately equal in weight to that of any other citizen in the State."

##### 2. Fifteenth Amendment to the Constitution

**Section 1. Right of suffrage.** The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state on account of race, color, or previous condition of servitude.

##### 3. Voting Rights Act of 1965, 42 U.S.C. secs. 1971, 1973 to 1973bb-1

**42 U.S.C. § 1973. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites; establishment of violation**

a. No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b (f)(2) of this title, [is a member of a language minority group] as provided in subsection (b) of this section.

b. A violation of subsection (a) of this section is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers

equal to their proportion in the population.

b. State Law

1. Equal Population

**Section 46. Senatorial and representative districts.** The state shall be divided into as many senatorial and representative districts as there are members of the senate and house of representatives respectively, each district in each house having a population as nearly equal as may be, as required by the constitution of the United States, but in no event shall there be more than five percent deviation between the most populous and the least populous district in each house.

2. County Boundaries

**Section 47. Composition of districts.** (2) Except when necessary to meet the equal population requirements of section 46, no part of one county shall be added to all or part of another county in forming districts. . . .

3. Municipal Boundaries

**Section 47. Composition of districts.** (2) . . . Within counties whose territory is contained in more than one district of the same house, the number of cities and towns whose territory is contained in more than one district of the same house shall be as small as possible. When county, city, or town boundaries are changed, adjustments, if any, in legislative districts shall be as prescribed by law.

4. Compactness and contiguity

**Section 47. Composition of districts.** (1) Each district shall be as compact in area as possible and the aggregate linear distance of all district boundaries shall be as short as possible. Each district shall consist of contiguous whole general election precincts. Districts of the same house shall not overlap.

5. Communities of interest

**Section 47. Composition of districts.** (3) Consistent with the provisions of this section and section 46 of this article, communities of interest, including ethnic, cultural, economic, trade area, geographic, and demographic factors, shall be preserved within a single district wherever possible.

c. Commission Rules

1991 - Competitive Districts