

To make democracy representative, our electoral process contains two related concepts: “electoral equality”—an individual’s vote should count the same as every other individual’s vote, and “representational equality”—elected representatives should represent approximately the same number of people.

To achieve the two above concepts, the Decennial Census, apportionment, and congressional redistricting are interrelated processes that occur every ten years. Article I, Section 2 of the US Constitution stipulates that congressional representatives be apportioned to the states based on population. Apportionment, also known as reapportionment, allocates the number of seats in a legislative body to account for population changes. Population grows at different rates across a state as well as population redistribution between the states create the need for reapportionment. The US House of Representatives currently has a total of 435 seats, and each state has one House seat and additional seats are distributed proportionally among the states according to state population size.

Redistricting is the process by which new congressional and state legislative district boundaries are drawn. Deadlines to complete redistricting vary by state, but it needs to be completed before elections, and November 8, 2022 will be the date of the first federal elections using new districting lines. Local legislative bodies must redistrict as well. The Supreme Court has ruled that any public elected body elected from districts must assign population to those districts equally—including entities such as councils, school districts, water improvement districts, and utility districts. Redistricting data includes the Census Bureau count of population broken out by race and ethnicity, counts for persons 18 years or older, down to the census block level, but can include other information such as election data, demographic data from other sources, and public input.<sup>1</sup> State legislatures are responsible for redistricting state legislative and congressional districts and many delegate this authority to a board or commission. You can find what your state does here <https://www.ncsl.org/research/redistricting/2009-redistricting-commissions-table.aspx>.

This process may face some disruptions. In 2020 the Decennial Census count faced delays due to the COVID-19 pandemic, and accepted responses until October 15.<sup>2</sup> On December 30 the Census Bureau posted a press release with an update on the 2020 Census. The release implied that the Census Bureau would miss the traditional December 31st deadline

of an accurate state population count, and that it would be made available in early 2021.<sup>3</sup>

Public Law 94-171 requires the Census Bureau to create and deliver to states data to conduct legislative redistricting, with a statutory deadline of April 1, 2021.<sup>4</sup> The potential delay of apportionment data delivery has raised some concerns about possible effects on congressional redistricting in states with constitutional or statutory redistricting deadlines in 2021.

Another issue that may affect redistricting is the case before the Supreme Court concerning President Trump’s memorandum to exclude unauthorized immigrants from the 2020 Census totals.<sup>5</sup> Traditionally the decennial census counted all persons including all US citizens, lawfully present aliens and unauthorized aliens.

Electoral votes are also allocated among the States based on the Census. Every state is allocated a number of votes equal to the number of senators and representatives in its US Congressional delegation—two votes for its senators in the US Senate plus a number of votes equal to the number of its Congressional districts.

See the allocation for your state here: <https://www.archives.gov/electoral-college/allocation>.

There is much more to learn about the processes of reapportionment and redistricting, including drawing district maps to avoid gerrymandering. Included below are a listing of resources to find more information.

## Notes

1. National Conference of State Legislatures, *Redistricting 101*, February 27, 2019, <https://www.youtube.com/watch?v=JxC9nJnLPzk&feature=youtu.be>.
2. “Ross v. National Urban League,” *SCOTUSblog*, <https://www.scotusblog.com/case-files/cases/ross-v-national-urban-league/>.
3. “Census Bureau Update on 2020 Census,” Census Bureau, <https://www.census.gov/newsroom/press-releases/2020/2020-census-update-apportionment.html>.
4. “Decennial Census P.L. 94-171 Redistricting Data,” Census Bureau, <https://www.census.gov/programs-surveys/decennial-census/about/rdo/summary-files.html>.
5. Michael Wines, “A Census Case That Goes to the Heart of American Democracy,” *New York Times*, November 30, 2020, <https://www.nytimes.com/2020/11/30/>

us/scotus-census.html; Donald Trump, *Memorandum on Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census*, July 21, 2020, <https://www.federalregister.gov/documents/2020/07/23/2020-16216/excluding-illegal-aliens-from-the-apportionment-base-following-the-2020-census>.

### Further Resources

*Apportionment and Redistricting Process for the U.S. House of Representatives*, CRS Report, [https://crsreports.congress.gov/product/pdf/R/R45951#\\_Toc21686917](https://crsreports.congress.gov/product/pdf/R/R45951#_Toc21686917),

*Apportionment and Redistricting Following the 2020 Census*, CRS Report, <https://crsreports.congress.gov/product/pdf/IN/IN11360>,

*Constitutionality of Excluding Aliens from the Census for Apportionment and Redistricting Purposes*, CRS Report, <https://www.everycrsreport.com/reports/R41048.html>,

Justin Levitt, *All About Redistricting*, <https://redistricting.ills.edu/>,

USC Annenberg Center, *The ReDistricting Game*, <http://www.redistrictinggame.org/>.

Brennan Center for Justice, *Redistricting*, <https://www.brennancenter.org/issues/gerrymandering-fair-representation/redistricting>.

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