

Panel 2: Redistricting Commissions

The Constitution provides that “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof.” U.S. Const. art. I, § 4. This provision, by its terms, does not require that voting maps be drawn by state legislatures.

Without constitutional guidance, the drawing of both state and Congressional district maps has become a highly politicized and partisan process. Although the details of state redistricting commissions vary greatly, the redistricting processes used in many states allows the majority political party to redraw district lines in a manner that 1) expands the political dominance of the party in power and 2) ensures the re-election of incumbents. While recognizing that partisan redistricting is a fact of modern political life that has severe ramifications for our democracy, the Supreme Court made clear in Rucho v. Common Cause (decided June 27, 2019) that only the states themselves, and not the federal courts, possess the power to remediate partisan gerrymandering.

Some view the creation of “independent” redistricting commissions as the solution to partisan gerrymandering. Anticipating the reluctance of state legislators to delegate map drawing authority to others, voters in some states, including Ohio (May 2018), have established redistricting commissions by statewide referendum.

But not all redistricting commissions are created equal; some are more ‘independent’ than others. They can and do vary widely as to their composition and procedures. Further, they offer no ‘solution’ to voters in those states—more than half—that do not allow for the creation of redistricting commissions by statewide referendum.

Nonetheless, the redistricting reforms enacted by various states may help restore faith in the integrity of our electoral system, by creating more races that are competitive rather than predetermined for seats in state legislatures and the U.S. House of Representatives.