Georgia Municipal Redistricting Guide

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GEORGIA MUNICIPAL ASSOCIATION

2014 Georgia Municipal Redistricting Guide

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Foreword

The primary author of this publication is GMA Associate General Counsel Ted C. Baggett. GMA extends its thanks to both Deputy Attorney General Dennis Dunn and Assistant Attorney General Kyle Pearson who were both kind enough to offer their editing assistance and critique. In addition, GMA thanks Charles Craig, Collin Brown, Susan Moore, Kelly Shields, and Lynn Quarles of the GMA staff for their contributions.

Disclaimer

The purpose of this publication is not to provide a comprehensive discussion of all aspects of redistricting. The materials are intended to highlight several, but not all, areas where legal issues commonly arise concerning municipal reapportionment. The law is constantly changing and timely legal advice based on current law is essential to avoiding liability. This publication is provided for general information purposes only, does not constitute legal advice and may not apply to your specific situation. You should consult with your city attorney before taking any action based on this information.

I. Introduction

Redistricting, or "reapportionment" is the redrawing of the boundaries of an elective political district. It may be the most difficult task that governing bodies in republican forms of government face. It involves making difficult decisions constricted by extremely complicated federal and state jurisprudence in the context of a political process. Among elected officials, it can turn long time colleagues into adversaries overnight. For the city itself, it can be the source of years of litigation. For the citizens, the repercussions can be felt for decades, since the process often changes the face and even the form of government.

Despite the difficulties involved, hundreds of governments nationwide manage to accomplish redistricting at least once every ten years. The release of decennial census figures triggers reapportionment of Congressional seats among the several states, and causes the various state legislatures to reapportion the population of their state into their allotted number of Congressional districts. The Constitution of Georgia requires that the General Assembly reapportion state Senate and House districts after every decennial census. Local government districts are required to apportion their elective districts in such a manner as to guarantee their citizens' Constitutional rights.

Because the state code does not mandate that cities automatically reapportion after every census, it is important for local governments to understand the Constitutional law factors that may require it. The overriding legal principle that triggers the necessity for reapportionment is referred to as "one person, one vote." Although this concept is covered in more depth in the next section, the essential requirement is that districts within a political entity not be so disproportionately populated as to diminish the voting strength of any of the citizens. If the census data demonstrates that a city has grown in population or that population within the city has shifted among elective districts, the city will need to reapportion the population. Another crucial factor that must be considered in determining whether a city needs to reapportion is the voting strength of minority populations. Should census data reveal that redistricting is advisable, the next task for the city is to figure out how to accomplish the task. Following guidelines and keeping the law in this complicated area in mind during the course of a redistricting process may serve to make the process and the outcome better for the members of governing authorities and the citizens they serve.

It is the hope of the Georgia Municipal Association that this guide will assist cities in undertaking this difficult process. This guide discusses redistricting law in general terms, but every city's situation and political geography is different. Every city should consult with their city attorney about the specifics of their proposed redistricting plans. GMA recommends that every city adopt some sort of guidelines to establish acceptable parameters for the plans considered during the process, these should also be developed in conjunction with legal advice from the city attorney.

II. Census Data and Deviation. Does your city need to Reapportion?

As previously stated, the primary legal concern for any districting plan is that it comply with the principle of "one person, one vote." Baker v. Carr, 369 U.S. 186 (1962); Reynolds v. Sims, 377 U.S. 533 (1964). In numerous cases the courts have expanded on the practical meaning of this concept for governments of various sizes. Abate v Mundt, 403 U.S. 182 (1971). The principle dictates that in order for every citizen to enjoy his or her Equal Protection rights under the 14th Amendment, every citizen's vote should be of generally equal mathematical weight. In other words, the voting strength of citizens living in one district should not be greater than the voting strength of the citizens in another simply because there are a great deal less people in one district enjoying the same amount of representation as compared to another more populated district.

Example:

Midland County, Texas had a population of 70,000. It was divided into 4 districts. The district populations were as follows: 67,906, 852, 414, and 828. The Court struck down the plan on equal protection ("one person, one vote") grounds essentially because the residents of the district with a population of 67,906 had such little influence on the election of members of the governing authority in comparison to the votes cast by residents of the less populated districts. *See* Avery v. Midland County, Texas et. al., 390 U.S. 474 (1968).

Does your city presently have districts?

The first factor to examine in determining if reapportionment is warranted is the city's current districting plan. If the officials of a city are elected city-wide (at-large) with no post residency requirements[1], population growth will be largely irrelevant for "one person, one vote" concerns since every voter will have the opportunity to vote for every council member. Provided that such a system does not raise Voting Rights Act concerns[2], even a large amount of growth under an at-large system would not necessitate redistricting since equal protection concerns will continue to be met, despite the city's larger size. Drastic increases in population may move members of the governing authority or citizens to desire a change from an at-large system to a district system. Such a change is permissible, but only through a local Act of the General Assembly. *See* O.C.G.A. § 36-35-4.1. Therefore, unless new census figures demonstrate a need to change the form of electing the governing body to comply with the Voting Rights Act, cities with members of the governing authority elected at large will not be required to reapportion.

Does state law compel your city to redistrict?

[1] Some districting plans require that council members live in a particular area, but run city wide.
[2] *See* Section III.

While the Georgia Constitution does contain an equal protection clause, it is silent on municipal redistricting. Code Section 36-35-4.1 is written with permissive language, which **allows** but does not **require**, cities to redistrict after the Census.[3]

Does your city charter or an ordinance compel redistricting after every census?

Although the Constitution of Georgia and state statues do not mandate that municipalities reapportion after every census, local law may. Some charters not only require that the governing body enact a reapportionment ordinance within a certain time after the release of census data, but also call for the appointment of a districting commission to review the data and come up with a districting plan. If changes are not necessary, these jurisdictions can simply re-enact their existing plan after following the procedural guidelines required by O.C.G.A. § 36-35-3 (see Section IV below) as well as any provided in their charter.

How does one know if the city's districts comply with "one person, one vote?"

In order to know if the city's current plan needs adjustment, a careful review of the new census data should be undertaken.[4] Census data is counted and organized into small areas of population called blocks.[5] These blocks are grouped together by local election supervisors into election precincts. If possible, the districts in your city should be comprised of whole precincts. This will make it easier for local election officials to design ballots and conduct elections. If possible, city precincts should be identical to county precincts used inside the city limits, so that voters will not face the possibility of having to travel to two different polling places to vote in city and county elections. The existing district lines should be scrutinized in light of how they apportion the population data as reported by the 2000 Census. If this examination reveals a total deviation greater than 10%, the city probably needs to redistrict. If the "old lines" and the new data do not reveal increased deviation, and do not present Voting Rights Act concerns, then the city probably does not need to reapportion.

"Deviation" is the technical term utilized to describe the degree to which a plan fails to apportion population evenly among districts. Although districts should ideally be as even as possible, other constraints often make this impossible. Thus, for local governments, a deviation less than 10% has been held to be presumptively valid. Voinovich v. Quilter, 507 U.S. 146 (1993); *see also* Abate v Mundt, 403 U.S. 182 (1971). Local government districts are allowed greater deviations than Congressional

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[3] "Subject to the limitations provided by this Code section, the governing authority of any municipal corporation *is authorized* to reapportion the election districts from which members of the municipal governing authority are elected following publication of the United States decennial census . . ." (*emphasis added*). *See* Appendix B.

[4] Some cities may believe that the census data does not accurately reflect the population in their city. The Census Bureau has an appeal process that cities may utilize to contest the reported figures. More information about this process can be obtained at the Census Bureau's website: www.census.gov.

[5] The Census Bureau offers the 2000 data in a variety of formats; cities should contact the Bureau or the State Data Center to determine the format that best meets their technical capability: http://www.gadata.org/.

districts because of the unique constraints smaller governments face in the districting process. *See* Abate; Voinovich. Although a greater deviation might be permissible under certain circumstances, such a plan would not carry a presumption of validity and the burden of proof to justify such a plan would lie with the city. Abate. In the single member district plan example provided in Appendix C, the total deviation is 10% and the range is +5% to –5%. The only valid reason thus far found to justify a deviation greater than 10% was to avoid splitting counties, cities, and towns in a state legislative plan. Abate. Since cities are the typically the smallest unit of government, wisdom remains on the side of keeping total deviation below 10%.

Plans that combine at-large members with single member districts are sometimes utilized in order to reduce overall deviation while simultaneously insuring representation of a minority population. To calculate deviation for these plans, the calculation method approved in Board of Estimate of the City of New York v. Morris, 489 U.S. 688 (1989) should be utilized. *See* Appendix C.

A quick word about residency "posts" or "wards."

Some plans call for residency wards that lie within districts or constitute specific residency requirements within an at-large plan. For example, a city might have four council seats that are elected at-large, but each councilperson might be required to live in a particular part of the city. There is little case law concerning the specific details of these types of wards, but the cases that do exist suggest that the principle of "one person, one vote" applies to residency wards as well. *See* Perkins v. City of West Helena , Ark., 675 F.2d 201 n.16 (8th Cir. 1982).

III. Voting Rights Act Compliance

A. Section 5

The federal Voting Rights Act requires that all covered jurisdictions submit redistricting plans to the U.S. Department of Justice for preclearance.[6] At the time of publication of this guide, however, Section 4(b) of the Voting Rights Act, which contained the formula for determining which jurisdictions were covered jurisdictions has been struck down by the United States Supreme Court in Shelby County, Alabama v. Holder, 133 S.Ct. 2612 (2013). As a result of the Shelby decision the Section 5 preclearance requirements of the Voting Rights Act have been rendered inoperable. Under the 1982 amendments to the Voting Rights Act, the preclearance procedure were to remain a requirement until 2009 or until a jurisdiction "bailed out" of section 5 coverage.[7] For instance, the City of Sandy Springs, Georgia, was successfully able to bail out of Section 5 of the Voting Rights Act in 2010.

[6] 42 U.S.C. § 1973c.

[7] The regulations contain a provision that allows a jurisdiction to file a declaratory action in order to terminate the Act's coverage over that jurisdiction. No jurisdiction in Georgia has ever done so.

B. Section 2

The Shelby decision, while rendering Section 5 of the Voting Rights Act inoperable, did not have any effect on Section 2 of the Act. The purpose of Section 2 of the Voting Rights Act is to ensure that "the political process leading to nomination or election in the State or political subdivision" are equally open to participation by members of a minority racial or language minority group, "provided that nothing in this section shall establish a right to have members of a protected class elected in numbers equal to their proportion in the population." 42 U.S.C. § 1973. Perhaps the most crucial point to note is that whether the preclearance requirement under Section 5 is operable or inoperable does nothing to prevent a successful Section 2 claim. The Shelby decision, therefore, has no effect on the potential viability of a successful Section 2 claim. The Court has synthesized the congressionally noted factors for determining if a Section 2 action may be maintained into what are known as the Gingles factors.

Section 2 requires showing:

> First, the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single member district . . . Second, the minority group must be able to show that it is politically cohesive . . . Third, the minority group must be able to demonstrate that the White majority votes sufficiently as a bloc to enable it--in the absence of special circumstances . . . usually to defeat the minority's preferred candidate.

Thornburg v. Gingles, 478 U.S. 30, 50-51 (1986). After a plaintiff has met the necessary preconditions, he or she still bears the burden of proof for showing that under the totality of the circumstances, the particular minority group in question does not enjoy an equal opportunity to participate in the political process.

Redistricting experts have their own lexicon, and among the terms they use to describe impermissible Section 2 practices are the terms "packing" and "cracking." "Packing" is the practice of placing minority groups in one or a limited number of districts so as to minimize the impact they might have in the electoral practice if they were distributed among more districts. "Cracking" is the practice of dividing a minority community into more than one district so that they cannot exert a controlling influence in one particular district. Unfortunately, there are no magic numbers; some jurisdictions' plans may call for higher percentages of minority populations inside districts in order to assure the minority population the ability to elect representatives of their choice. Due to the difficulty of drawing plans that adequately provide for minority representation, these cases will turn on an extensive examination of the unique facts of the particular area whose plan is being challenged. It is wise therefore, to utilize a redistricting process that involves citizens and community leaders, takes

into account the unique history of an area, and offers everyone the opportunity to give input. Keep in mind, however, that during the process a record is being built that could be used as evidence in a Section 2 suit.

Although Section 2 requires that plans be drawn so as not to have a discriminatory effect, it must also be remembered that the Voting Rights Act does not guarantee a minority group representation on the governing authority equal to their percentage of the general population. The Court has taken a dim view of plans that "maximize" minority influence while excluding other redistricting factors. Out of the zeal of some to maximize minority participation at the expense of other factors, a new line of case law has developed to combat so called "racial gerrymandering."[8]

C. Racial Gerrymandering

Although a redistricting plan must not be drawn so as to produce a discriminatory effect, plans also may not use race as the "predominant factor" behind their design. Miller v. Johnson, 515 U.S. 900, 920 (1995). Starting in 1993, the United States Supreme Court held that plans which utilized race as the predominating factor over other traditional redistricting concerns violated the Equal Protection clause. Shaw v. Reno, 509 U.S. 630 (1993). Because the Voting Rights Act requires that redistricting plans take race into account, determining whether a plan uses race as the predominant factor or merely takes it into account is not easy. The Court has described a racially gerrymandered plan as "so irrational on its face that it can only be understood as an effort to segregate voters and to separate voting districts because of their race." Shaw at 657. Perhaps the best guideline is a "look test." If the plan appears to have been absurdly drawn and the only explanation for its awkward design is to maximize racial minority voting strength, it is probably a racial gerrymander. Whether a court will find plans to be unconstitutional on these grounds remains a fact specific inquiry.

D. Political Gerrymandering

Although racial gerrymandering has been held unconstitutional, a question remains as to whether the more traditional political gerrymandering is permissible. The Supreme Court has found that political gerrymandering may present a justiciable question under the Equal Protection Clause. Davis v. Bandemer, 478 U.S. 109 (1986). However, in the same case, the Court in a plurality opinion declared that "the intentional drawing of district boundary lines for partisan ends and no other reason" was not unconstitutional. Davis at 138. Recently, the Supreme Court suggested that protecting an incumbent and creating a safe seat for a political party may be legitimate redistricting factors. Hunt v. Cromartie, 121 S.Ct. 1452 (2001). Although the case concerned racial gerrymandering and was decided on evidentiary questions,

[8] The term *gerrymander* originated in 1812, when Governor Elbridge Gerry of Massachusetts drew a redistricting plan designed to give his own party a tremendous advantage over the Federalists. One of the electoral districts was shaped so strangely that one Federalist compared it to a salamander. "No," another quipped, "call it a Gerrymander." To "racially Gerrymander" means to draw a district, regardless of its appearance, in a manner designed to maximize minority population influence while excluding other factors.

the language used by the Court probably makes it unlikely that challenges to districting plans based on political gerrymandering grounds will be successful.

IV. Mechanics

Now that we know we need to reapportion, how do we do it?

Cities must follow the procedures in O.C.G.A. § 36-35-4.1 to change their districts via Home Rule. Districts must be of contiguous territory. The new boundary lines must be the centerlines of streets or other well-defined boundaries. The existing districts may not be changed more than necessary to comply with "one person, one vote" requirements. The number of members of the governing authority and the manner of electing them cannot be changed, except for the adjustments to the district lines. This raises a hurdle for cities that may need to make changes to their plans in order to accommodate Voting Rights Act concerns. Based on the language of the statute, significant changes to district plans, which affect the form of government or move the boundaries more than are necessary to comply with the "one person, one vote" standard, will require a local Act of the General Assembly for passage.

Assuming we can accomplish our redistricting by Home Rule, are there any special considerations?

Because redistricting plans are adopted as ordinances that amend the city charter, they must be adopted in accordance with O.C.G.A. § 36-35-3. *See* O.C.G.A. § 36-35-4.1(b). The ordinance must be adopted at two regular consecutive meetings of city council, held not less than seven nor more than 60 days apart. A notice containing a synopsis of the proposed amendment must be published in the official organ of the county of the legal situs of the city, or in a newspaper of general circulation in the city once a week for three weeks within a period of 60 days immediately preceding its final adoption. The notice must state that a copy of the proposed amendment is on file in the office of the clerk or the recording officer of the city and in the office of the clerk of the superior court of the county of the legal situs of the city for the purpose of examination and inspection by the public. *See* O.C.G.A. § 36-35-3(b)(1).

Assuming we have to accomplish our redistricting by local Act of the General Assembly, are there any special considerations?

Cities that adopt redistricting plans by local Act will need to be mindful of the advertising requirements for local legislation. *See* O.C.G.A. § 28-1-14. As with all other local legislation, cities should be aware of any special rules required by their State House or State Senate delegation. For example, some delegations require that a local bill be presented formally at a delegation meeting during the session. Additionally, cities should have their city attorney follow the local legislation to ensure that the legal descriptions contained within the bill are accurate and to ensure that other legal considerations such as the effective date meet with the city's desire.

Because of the sensitive political nature of redistricting, cities should consider enacting a resolution requesting a particular plan be introduced by their local delegation. This may ensure that everyone is clear about which plan the city supports and give the legislator introducing it an acceptable comfort level. Working closely with the members of the General Assembly will prove invaluable to the city attempting to redistrict by local Act.

Are there any special considerations that should go into the city's process of adopting either an ordinance by Home Rule or a resolution asking for a local Act?

Because redistricting is politically sensitive, it may be wise to agree on a specific process to follow while formulating the city's plan. While the city should be careful not to establish requirements so strict that they become a snare that either prohibits the adoption of any plan or serves to invalidate a plan after it has been adopted, adopting a set of guidelines that will establish the acceptable parameters in which the city will operate may prove helpful. For example, the city may want to hold a meeting solely for the purpose of receiving public input on proposed plans. Again, keep in mind that comments made might later become evidence in a legal challenge. The city may want to receive testimony from those with experience in demographics or cartography. The city may want to agree on a standard format to be used by those submitting plans for consideration. A portion of the state reapportionment guidelines is included in Appendix D.

Are there any valid criteria that redistricting plans may use?

Courts have recognized that there are several "traditional redistricting criteria" that may be considered by the drafters of a plan. These include the following: contiguity and compactness, avoiding splitting precincts, preserving communities of interest, protecting incumbents, voter convenience, population equity, and establishing political competitiveness. *See* Shaw at 647; *see e.g*. Major v. Treen, 574 F.Supp. 325 (D.C. La.,1983). These criteria should be utilized and perhaps even included in any guidelines the city adopts. A record that demonstrates these criteria were utilized and that careful consideration was given to according minority populations an appropriate opportunity to participate will go a long way towards protecting the city's plan from legal attack.

Is there anyone out there with the expertise to help us with this process?

The State of Georgia maintains the Legislative Redistricting Office.[9] The Office is willing to offer assistance to cities as time allows. Cities believing that they are need of the this assistance should have a member of their General Assembly delegation request that the city be placed on a waiting list. The Office is primarily occupied with assisting the state legislature reapportion Congressional and state House and Senate districts, however they have been a valuable resource for cities over the years.

[9] Visit the state reapportionment web page: http://www.legis.state.ga.us/Legis/2001_02/reapp/index.htm.

Appendix A: Redistricting Checklist

___ 1. The city's 2000 Census data has been examined in light of the existing district or at-large election scheme of the municipal governing authority.

___ 2. The city's Charter has been consulted in order to determine if a mandatory redistricting process must be initiated after the 2000 Census.

___ 3. A calculation of deviation of the city's districts with the 2000 Census figures has been made in order to determine whether the existing districts comply with the principal of one person, one vote.

___ 4. An examination of the city's racial demographic data from the 2000 Census has been made in order to determine whether changes may need to be made to comply with the Voting Rights Act.

___ 5. If the city is to redistrict, a set of guidelines as to how the process will proceed is adopted.

___ 6.a. If a new plan is to be adopted by home rule, the procedures of O.C.G.A. § 36-35-4.1, O.C.G.A. § 36-35-3, O.C.G.A. § 36-35-5 are followed.

OR

___ 6.b. If a new plan is to be adopted by local Act of the General Assembly, the procedures of O.C.G.A. § 28-1-14 are followed.

OR

___ 7. A successful declaratory judgment has been obtained from the federal district court for the District of Columbia.

___ 8. A copy of the new plan is sent to the Legislative Reapportionment Office.[10]

[10] Legislative Reapportionment Office 18 Capitol Square Room 407 Atlanta, GA 30334 PHONE: 404-656-5063 FAX: 404-651-8086

Appendix B
Home Rule Reapportionment O.C.G.A. § 36-35-4.1.

(a) Subject to the limitations provided by this Code section, the governing authority of any municipal corporation is authorized to reapportion the election districts from which members of the municipal governing authority are elected following publication of the United States decennial census of 1980 or any future such census. Such reapportionment of districts shall be effective for the election of members to the municipal governing authority at the next regular general municipal election following the publication of the decennial census.

(b) The municipal governing authority shall by ordinance amend its charter pursuant to paragraph (1) of subsection (b) of Code Section 36-35-3 to reapportion the districts in accordance with the following specifications:

> (1) Each reapportioned district shall be formed of contiguous territory; and the boundary lines of such district shall be the center lines of streets or other well-defined boundaries;
>
> (2) Variations in population among such districts shall comply with the one person-one vote requirements of the United States Constitution; and
>
> (3) The reapportionment shall be limited to adjusting the boundary lines of the existing districts only to the extent reasonably necessary to comply with the requirements of paragraph (2) of this subsection; and the number of members of the municipal governing body and the manner of electing such members, except for the adjustment of district boundary lines, shall not be changed by the municipal governing authority.

(c) In addition to reapportionment following publication of the decennial census, a municipal governing authority shall reapportion districts pursuant to this Code section if the annexation of additional territory to the corporate boundaries of the municipality has the effect of denying electors residing within the newly annexed territory the right to vote for members of the municipal governing authority on substantially the same basis as the other electors of the municipality vote for members of the municipal governing authority. The reapportionment provided for in this subsection shall meet the criteria specified in subsection (b) of this Code section and shall be further limited to making only those adjustments in district boundary lines as may be reasonably necessary to include the newly annexed territory within such districts. Reapportionment under this subsection shall be effective for the next regular general municipal election following the annexation.

(d) This Code section shall not prohibit the General Assembly from enacting a local law at any time to amend the charter of a municipality to reapportion or otherwise change election districts from which members of the municipal governing authority are elected. If such action is taken by the General Assembly following publication of a decennial census, but before the first regular general municipal election following the publication of

such census, the local Act of the General Assembly shall nullify the power given to the municipal governing authority by subsections (a) and (b) of this Code section to reapportion districts following publication of that decennial census. If such action is taken by the General Assembly in conjunction with the annexation, by local Act of the General Assembly, of additional territory to the corporate boundaries of the municipality, the local Act of the General Assembly shall nullify the power and duty given to the municipal governing authority by subsection (c) of this Code section to reapportion districts as a result of that annexation.

(e) In addition to reapportionment following publication of the decennial census, the governing authority of any municipal corporation with a population of 40,000 or more according to the latest United States decennial census is authorized not more than one time during the ten-year period between the publication of consecutive decennial censuses to reapportion or modify the election districts from which members of the municipal governing authority are elected; provided, however, that (1) no such reapportionment shall result in the redistricting of more than 600 persons, (2) no such reapportionment shall occur within 180 days of a general or special municipal election or primary, and (3) a map reflecting any changes and copies of any communications to or from the United States Department of Justice relating to such changes are furnished to the Secretary of State and the Legislative Reapportionment Office within 30 days after such change or communication. Such reapportionment of districts shall be effective for the election of one or more members to the municipal governing authority at the next regular general municipal election or special municipal election following such reapportionment.

Appendix C-How to Measure Equal Population

Example of a district plan: The following illustrations are based on a hypothetical city of 35,000 people with seven single member election districts.

Election District	District Population	District % Deviation
A	4,750	-5.0
B	5,000	0.0
C	5,250	+5.0
D	4,900	-2.0
E	4,800	-4.0
F	5,175	+3.5
G	5,125	+2.5
7	35,000	-

Definitions:

Ideal District Population = $\frac{\text{Total Population}}{\text{Number of Districts}}$

Example:

$\frac{35{,}000 \text{ (Total Population)}}{7 \text{ (number of Districts)}}$ = 5,000 (Ideal District Population)

Deviation (a percentage) = $\frac{\text{Actual District Population- Ideal District Population}}{\text{Ideal District Population}}$

Example:

5,250 (Actual)- 5,000 (Ideal) = $\frac{250}{5{,}000\text{(Ideal)}}$ = +5% Deviation

Total Deviation = Sum of Deviations of Largest and Smallest Districts (disregarding + or -)

Example:

Largest District (+5% deviation) +
Smallest District (-5% deviation)
=10% Total Deviation

Average Deviation (a percentage) = $\frac{\text{Sum of Deviations (disregarding + or -)}}{\text{Number of Districts}}$

Example:

$\frac{(5.0+0.0+5.0+2.0+4.0+3.5+2.5)}{7} = \frac{22}{7}$ = 3.14% Average Deviation

Deviation Range: Range is expressed as "+5 to –5%"

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Calculation of Deviation in Combination Plans

Some plans contain both at-large and single member districts. The calculation of deviation in these plans must include taking into account the representation citizens in single member districts are able to enjoy through contributing to the election of the at-large members of the governing authority as well as in voting for their district representative. The Court approved of the following method for calculating combination plan deviation in Board of Estimate of New York City v. Morris, 489 U.S. 688 (1989).

Example:

City A has a population of 99,996 people. The governing authority is comprised of 8 council members, 2 are elected at-large and 6 are elected from single member districts. The ideal population for each single member district is 16,666.

$$\frac{\text{99,996 (Total Population)}}{\text{6 (Number of single member districts)}} = 16{,}666$$

The population for each of the single member districts is as follows:

District A- 16,247	District C- 16,666	District E- 16,848
District B- 16,922	District D- 16,300	District F- 17,013

The deviation for each district must include the representation they receive for contributing to the election of the two at-large members of the council. To determine this, divide each district's population by the total population of the city.

$$\frac{\text{(Population of District A) 16,247}}{\text{(Total Population) 99,996}} = 16.24\% \text{ or } .16$$

Multiply this number by 2, since there are two at-large seats.

$$.16 + .16 = 32.49\% \text{ or } .32$$

The percentage of representation from the at-large seats rounded to the nearest hundredths place) for each district is as follows:

District A- .32	District C- .33	District E- .34
District B- .34	District D- .33	District F- .34

Add one to the percentage representation from the two at-large districts to account for the single member district. This number reflects the total number of representatives elected by the district:

District A- 1.32	District C- 1.33	District E- 1.34
District B- 1.34	District D- 1.33	District F- 1.34

Divide the district population by the total number of representatives elected by the district.

$$\frac{\text{(District A Population) } 16{,}247}{\text{(Total number of representatives elected by district) } 1.32} = 12{,}308$$

This number is the population per representative. For each district the number is:

District A- 12,308	District C- 12,531	District E- 12,573
District B- 12,628	District D- 12,256	District F- 12,696

Remember that since deviation is being calculated on basis of all 8 seats, the per district ideal population used to calculate the deviation per representative will be 12,500.

$$\frac{\text{(Total Population) } 99{,}996}{\text{(Number of seats district + at-large) } 8} = 12{,}500$$

Calculating the deviation per representative as follows:

$$\text{(Ideal) } 12{,}500 - \text{(District A) } 12{,}308 = 192$$

$$\frac{192}{\text{(Ideal) } 12{,}500} = \text{-1.5\% deviation}$$

For each district, the deviations are as follows:

District A- -1.5%	District C- +.2%	District E- +.5%
District B- +1.0%	District D- -1.9%	District F- +1.5%

The total deviation for this combination plan is only 3.4% (the sum of the highest and lowest deviations for individual districts), within the acceptable range. The same plan with only 6 single district districts (without at-large members) would have a total deviation of 4.6%. Although in this example both plans would be presumed valid because their total deviations are less than 10%, it can be seen why combination plans are often utilized for their increased flexibility.

Appendix D
Reapportionment Plan Guidelines for Georgia General Assembly

GENERAL GUIDELINES FOR PLANS*

1. A redistricting plan may be presented for consideration by the Reapportionment Committee only through the sponsorship of one or more Member(s) of the General Assembly. All such drafts of and amendments or revisions to plans presented at any committee meeting must be on clearly depicted maps which follow census geographic boundaries and should be accompanied by a statistical sheet listing the census geography, including the total population and the minority population for each proposed district.

2. No plan may be presented to the Reapportionment Committee unless that plan makes accommodations for and fits back into a specific, identified statewide map for the particular legislative body involved.

3. All plans presented at committee meetings will be made available for inspection by the public either electronically or on hard copy available at the Legislative Reapportionment Office.

4. Each legislative district of the General Assembly should be drawn to achieve substantial equality of population among the various districts. The population deviation of the entire legislative plan should not exceed an overall deviation of 10%.

5. Each congressional district should approach the ideal district size as nearly as is practicable.

6. All plans adopted by the Committee will comply with the Voting Rights Act and with the United States and Georgia Constitutions.

7. Districts shall be composed of contiguous geography.

8. Where the above-stated criteria are met, efforts may be made to maintain the integrity of political subdivisions as well as recognizing other established redistricting principles.

9. The identifying of these criteria is not intended to limit the consideration of any other principles or factors that the Committees deem appropriate.

* Not all of the state's guidelines are appropriate for cities because of the legal differences for reapportionment for cities and the General Assembly. No guidelines should be adopted without consultation with the city attorney.