EAST SIDE HIGH SCHOOL DISTRICT

Vander Zee, Glenn <vanderzeeg@esuhsd.org>

Fw: East Side UHSD trustee-area maps

1 message

Kevin Shenkman <shenkman@sbcglobal.net> Mon, Sep 15, 2025 at 5:18 PM
To: Glenn Vander Zee <vanderzeeg@esuhsd.org>, Paul Mitchell <paul@redistrictingpartners.com>, Bryan Do <dob@esuhsd.org>, "lev@esuhsd.org" <lev@esuhsd.org>, Lorena Chavez <chavezl@esuhsd.org>, "herrerajm@esuhsd.org" <herrerajm@esuhsd.org>, "cortesep@esuhsd.org" <cortesep@esuhsd.org>

Messrs. Vander Zee and Mitchell, and Members of the Board of Trustees,

I am informed that you are nearing the end of the trustee-area mapping process, and the Board has narrowed its consideration to five maps - now referred to as Maps A-E. I want to flag a couple issues for you before any map is selected by the Board for presentation to the County Committee on School District Organization, in hopes that we can avoid future problems.

Maps A, D and E likely violate the Fair Maps Act for some fairly obvious reasons.

First, while Maps B (300296) and C (300848) include three Asian-majority districts and one Latino-majority district (by eligible voters), Maps A (300295), D (316855) and E (304224) unnecessarily divide the Vietnamese community so as to eliminate a third majority-Asian district. (See Elec. Code 21130(b); 91 Cal. Ops. Atty. Gen. 403 ["If a district can be created with a racial minority population high enough to guarantee the election of a candidate of the racial minority community's choosing, section 2 of the Voting Rights Act generally requires the creation of such a district in a redistricting plan."].) Moreover, in Map A even the Latino-majority district is just barely 50% Latino by eligible voters, suggesting the sort of racial target that the U.S. Supreme Court has suggested may be suspect.

Second, while the maps all seem to have been revised since my September 8 email (below) to bring the population deviation of each map below 10%, Maps D and E (and to a lesser extent Map C) all still have significant deviations approaching 10% - specifically, 9.4% for Map D and 9.8% for Map E. Particularly where such population deviations are not achieving some legitimate goal, a deviation approaching 10% may violate the U.S. Constitution. (See Larios v. Cox (N.D.Ga. 2004) 300 F.Supp.2d 1320, discussed below, finding a deviation of 9.98% unconstitutional).

I encourage ESUHSD to adopt one of the appropriate maps that were developed by Redistricting Partners. Map B, for example, appears to be superior -- it has three Asian-majority districts and one Latino-majority district; just a 3.0% population deviation; and does not reflect any incumbent gerrymandering. Adopting Maps A, D or E will only cause problems.

Feel free to contact me if you'd like to discuss any of this before your meeting.

-Kevin Shenkman
Shenkman & Hughes PC
310-457-0970

On Monday, September 8, 2025 at 09:18:40 AM PDT, Kevin Shenkman <shenkman@sbcglobal.net> wrote:

Mr. Vander Zee,

I am writing to express our concern regarding some the trustee-area maps that East Side UHSD is considering at its upcoming board meetings. Specifically, it appears that the population deviation calculated by the mapping tool offered to the public by East Side UHSD, is calculated incorrectly, rendering many of those maps violative of the FAIR Maps Act (Elec. Code section 21130).

Generally, a population deviation greater than 10% is constitutionally suspect. (See Larios v. Cox (N.D.Ga. 2004) 300 F.Supp.2d 1320.) Population deviation is calculated by first calculating the population difference between the highest- and lowest-populated districts, and then dividing that number by the population of the "ideal" district (the total population of the jurisdiction divided by the number of seats on the governing board) (See Larios, supra.) In Larios v. Cox, for example, rural districts were all under-populated by nearly 5% compared to the ideal district population, and urban districts were all over-populated by nearly 5%, resulting in an overall population deviation of 9.98%. The court recognized that a deviation of no more than 10% is normally acceptable, but nonetheless found that systematically overpopulating urban districts and underpopulating rural districts was illegitimate.

It appears, from the online tool ESUHSD has provided to the public, that the population deviation percentage is miscalculated. Specifically, it appears that the population deviation listed is only the percentage difference between the most over/under-populated district and the ideal district, rather than the difference between the most over-populated and most under-populated. This has resulted in several proposed maps having an unconstitutional population deviation. For example, while the deviation reported for maps 316847, 316849 and 316855 is 5.55%, the actual deviation is 10.34%. Similarly, while the deviation reported for map 304224 is 6.73%, the actual deviation is 11.77%.

Other maps have lower deviations, and so even though the tool miscalculated the deviation, when correctly calculated it is still below 10%. For example, map 306924 has a deviation of 5.20% (reported as 3.38%); map 302751 has a deviation of 4.03% (reported as 2.62%); and map 302467 has a deviation of 8.34% (reported as 4.34%).

With ESUHSD's final meetings on the trustee-area mapping process coming up, I wanted to give you a heads-up, rather than having ESUHSD face opposition at the County Committee on School District Organization or litigation thereafter.

Please feel free to call me at 310-497-8675 if you would like to discuss.

-Kevin Shenkman
Shenkman & Hughes PC