

# **EXHIBIT C**

February 27, 2023 Memorandum titled  
"Proposed Revised Redistricting Plan  
for Nassau County Legislature Districts"  
authored by Troutman Pepper Hamilton  
Sanders LLP



**DATE:** February 27, 2023

**RE:** Proposed Revised Redistricting Plan for Nassau County Legislature Districts

### EXECUTIVE SUMMARY

Following the release of population statistics from the 2020 decennial census, the Nassau County Legislature (“County Legislature”) established a Temporary Districting Advisory Commission (“Commission”) to assist the County Legislature in redrawing its nineteen legislative districts, in order to comply with the United States Constitution, federal law, the New York Constitution, and New York law. The Presiding Officer—in consultation with Troutman Pepper Hamilton Sanders LLP and redistricting expert Sean Trende, who served as legal counsel and the lead expert, respectively, in *Harkenrider v. Hochul*—reviewed the maps proposed by the Democratic members of the Commission and the Republican members of the Commission, respectively, and concluded that both maps suffer from various legal infirmities, such that the Legislature cannot adopt either map consistent with applicable law. Accordingly, the Presiding Officer—again, in consultation with Troutman Pepper and Sean Trende—proposed a new redistricting plan (“Original Proposed Map”) for the County Legislature’s consideration, released to the public on February 9, 2023. This Original Proposed Map took into consideration all received public comments, both orally submitted and written; the Commission members’ views, including proposed maps from both the Democratic members of the Commission and Republican members of the Commission; the publicly expressed views of the Legislature’s minority-party leadership; and all required legal criteria, under advice of Troutman Pepper and Sean Trende.

After presenting the Original Proposed Map to the public on February 9, the Nassau County Legislature held a Full Legislature Meeting on February 16, 2023, to review and discuss all of the proposed maps. At and in advance of this Full Legislature Meeting, the Presiding Officer received additional feedback in the form of supplemental reports filed by Dr. Megan Gall and Professor Daniel Magleby, input from both majority- and minority-party Legislators, and public testimony. As a result of this additional information, the Presiding Officer has made additional revisions to address various concerns raised, encapsulated in the revised proposed redistricting plan presented to the public on February 21, 2023 (“Proposed Revised Map”). This Memorandum now discusses in detail that Proposed Revised Map, and explains the changes made and how the Map complies with all applicable legal requirements.

### DISCUSSION

#### **I. The Proposed Revised Map Incorporates Several Important Changes, Resulting From Testimony Received From Legislators And The Public At The February 16, 2023, Full Legislature Meeting**

At the February 16, 2023, Full Legislature Meeting, Counsel for the Presiding Officer explained that if there were various community-of-interest-based considerations that any Legislators felt had not been adequately incorporated in the Original Proposed Map, those Legislators could likely make most such changes to the map without running afoul of the law. See Video Recording of February 16, 2023, Full Legislature Meeting at 1:40:48–1:42:00,



2:03:18–2:03:30 (“Feb. 16 Meeting Recording”).<sup>1</sup> Legislators and the public advanced several considerations that they wished to see reflected in any map eventually adopted by the Nassau County Legislature. Of the proposals discussed at the Full Legislature Meeting, there were three significant suggestions that the Proposed Revised Map was able to incorporate.

First, Legislator Arnold W. Drucker and members of the public provided compelling testimony that Plainview and Old Bethpage form a single, strong community of interest, which should be reflected in any map adopted by the Nassau County Legislature. Feb. 16 Meeting Recording at 2:22:10–2:24:01. Consistent with this persuasive discussion, the Proposed Revised Map has successfully accommodated this request, combining Plainview and Old Bethpage into a single district, in proposed District 16.<sup>2</sup>

Second, Legislator Carrié Solages offered testimony in favor of placing Elmont into a single district. Feb. 16 Meeting Recording at 2:03:55–2:05:00, 2:20:13–2:20:21. As Legislator Solages explained, the hamlet of Elmont is a community of interest. *Id.* The Proposed Revised Map unifies the vast majority of Elmont in proposed District 3, with the exception of a very small portion that remains in proposed District 8, in order to retain as much of this community of interest in a single district as practicable. Moreover, Legislator Solages also testified that the Mill Brook community should be returned to District 3 with Valley Stream, as these communities have significant connections. Feb. 16 Meeting Recording at 2:02:40–2:03:55, 2:20:12–2:20:21. The Proposed Revised Map also accommodates this request as much as possible, restoring a significant portion of Mill Brook to proposed District 3.

Third, both Legislators and members of the public decried the split of the Village of Hempstead into three districts. *See, e.g.*, Feb. 16 Meeting Recording at 0:42:42–0:42:58. Although the Village of Hempstead’s population exceeds 40% of the average district population, allowing it to be split, N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(v), and population-equality requirements largely require it to be split to make most maps work, the Proposed Revised Map takes seriously the criticisms raised at the February 16, 2023, Full Legislature Meeting. As a result, the Proposed Revised Map reduces the splits from three to two, reducing the number of times the Village of Hempstead is split between districts.<sup>3</sup>

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<sup>1</sup> Available at <http://nassaucountyny.iqm2.com/Citizens/SplitView.aspx?DVR=True&Mode=Video&MeetingID=2093>.

<sup>2</sup> Legislator Drucker’s remarks about where the map lines placed him, in particular, *see, e.g.*, Feb. 16 Meeting Recording at 2:21:36–2:22:10, were not considered in any way, as such incumbent-protection interests are prohibited under New York law, N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(v).

<sup>3</sup> There were also requests to move Lakeview from District 14 to District 1 in the Original Proposed Map, *see, e.g.*, Feb. 16 Meeting at 0:42:50–0:43:16, 1:56:41–2:00:30, 4:23:30–4:31:38, which the Proposed Revised Map was unable to accommodate. Lakeview’s inclusion in proposed District 14 continues to reflect the strong community of interest created by the shared schools of Malverne and Lakeview, which school district has become a pillar in the community, as well as the common transportation interests shared by residents of this community. Moreover, the Proposed Revised Map was unable to accommodate this request



After making the above-described changes to accommodate requests from Legislators and the public, other changes were needed to keep the map compliant with the equal population requirement under the law, as articulated below. *See infra* Appendix. Among these mostly minor changes, the most notable or significant are as follows:

- Additional portions of Freeport moved to proposed District 5;
- South Hempstead and portions of Oceanside moved to proposed District 6;
- Carle Place moved to proposed District 8;
- All of Roslyn Heights and East Williston moved to proposed District 9;
- Portions of Seaford moved to proposed District 12;
- Portions of Valley Stream moved to proposed District 14; and
- Portions of North Massapequa moved to proposed District 15.

Thus, the Proposed Revised Map made significant changes to accommodate requests from the public and Legislators, which also required additional revisions to keep the map compliant with equal population requirements. These changes did result in a Proposed Revised Map that scored slightly worse on equal population and Sean Trende's analysis than did the Original Proposed Map, although the Proposed Revised Map stays very well within the bounds of legality on both of those grounds. *Compare Troutman Pepper, Proposed Redistricting Plan for Nassau County Legislature Districts 2–3, 6, 9–10* (Feb. 16, 2023), *with infra* pp.4–6, 9, 13–18. Further, given that these changes are justified by the entirely lawful desire to accommodate the public's and Legislators' comments on communities of interest, described above, these changes do not cause additional legal risk for the Proposed Revised Map. Further, as a result of these community-based changes, and then making necessary adjustments to achieve population equality, the Proposed Revised Map now contains five districts where racial minorities make up the majority of the district, as measured by Voting Age Population ("VAP"), just as Minority Leader Kevan Abrahams had hoped for. *See* Feb. 16 Meeting Recording at 0:43:25–0:43:38.<sup>4</sup> This Memorandum strongly emphasizes that this particular district demographic mix resulted *entirely* from nonracial considerations described immediately above—considerations of communities of interests raised at the Meeting and then necessary population adjustments to reach population equality among the districts—and thus was *entirely* a byproduct of those permissible, nonracial considerations.

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and remain consistent with the legal requirements for equal population, without also splitting multiple other communities of interest throughout numerous other districts.

<sup>4</sup> Minority Leader Abraham's criticisms regarding the number of majority-minority districts in the Original Proposed Map were based upon VAP data, not Citizen Voting Age Population, or "CVAP," data, given that he expressed concern that the Original Proposed Map had only four majority-minority districts, Feb. 16 Meeting Recording at 0:43:33–0:43:47, and that was true only when using VAP data, not CVAP, *see* Megan Gall, PhD, GISP, *Supplemental Analysis of County Legislative Districts in Nassau County, New York* 1 (Feb. 16, 2023).



## II. The Proposed Revised Map Complies With All Legal Requirements, Including The Equal Protection Clause As Interpreted By *Shaw*, § 2 Of The Voting Rights Act Of 1965, The New York Constitution, And The John R. Lewis New York Voting Rights Act

The Proposed Revised Map complies with each of the constitutional and statutory standards applicable to redistricting in New York.

Equal Protection Clause Of The United States Constitution.<sup>5</sup> Every ten years, congressional, state legislative, and local districts must be redrawn to comply with the U.S. Constitution's requirement that each district is proportionally equal in population. See U.S. Const., art. I; *Karcher v. Daggett*, 462 U.S. 725, 744 (1983); *Reynolds v. Sims*, 377 U.S. 533, 579 (1964). The U.S. Supreme Court has held that local redistricting plans containing districts with "minor deviations from mathematical equality . . . with a maximum population deviation under 10%" do not "create[ ] a prima facie case of discrimination" and, thus, do not "require justification by the State." See *Brown v. Thomson*, 462 U.S. 835, 842–43 (1983) (citations omitted); see also *Wolpoff v. Cuomo*, 80 N.Y.2d 70, 78–79 (1992) (endorsing principle and approving plan with a 4.29% population deviation).

As shown in Table 1, the largest district in the Proposed Revised Map, proposed District 18, has 74,763 persons, while the smallest district, proposed District 16, has 72,567 persons, for a deviation of 2,196 persons, or 2.99%—falling well below the Supreme Court's 10% threshold, *Brown*, 462 U.S. at 842–43, and below other plans specifically affirmed by the New York Court of Appeals, *Wolpoff*, 80 N.Y.2d at 78–79. And as shown by the description of each district in the attached Appendix, any minor population deviations in the Proposed Revised Map are "free from any taint of arbitrariness or discrimination" and "are entirely the result of the consistent and nondiscriminatory application of a legitimate state policy," such as forming compact and contiguous districts, uniting communities of interest, keeping cities, towns, and villages whole inasmuch as practicable, and accommodating public requests. See *Brown*, 462 U.S. at 843–44 (citations omitted).

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<sup>5</sup> While the New York Constitution has its own Equal Protection Clause, N.Y. Const. art. I, § 11, its protections "are coextensive with those under the U.S. Constitution," *Congregation Rabbinical Coll. of Tartikov, Inc. v. Village of Ponomo, NY*, 945 F.3d 83, 110 (2d Cir. 2019) (citing *People v. Kern*, 75 N.Y.2d 638, 649 (1990)). This Memorandum's discussion of the Proposed Revised Map's compliance with the equal-protection guarantees of the U.S. Constitution is applicable to its compliance with the New York Constitution in this respect.

Table 1. District Populations Under The Proposed Revised Map<sup>6</sup>

District	Total Population
District 1	73,464
District 2	74,700
District 3	73,370
District 4	73,076
District 5	73,102
District 6	73,071
District 7	72,923
District 8	72,977
District 9	74,682
District 10	74,302
District 11	73,276
District 12	73,022
District 13	73,101
District 14	72,749
District 15	74,232
District 16	72,567
District 17	74,166
District 18	74,763

<sup>6</sup> In compiling the prior memorandum, a single census block in Hewlett consisting of 28 persons was not included in the population data used to prepare the memorandum, Feb. 16 Meeting Recording at 2:31:50–2:33:50, but that 28-person block *was* included in the actual map submitted to the Legislature. For clarity, that 28-person census block *is* included in both the Proposed Revised Map *and* this Memorandum about that Map.



District 19	73,382
<b>Mean Population of All Districts:</b>	73,522 (1,396,925 / 19)
<b>Max. Population Difference:</b>	2,196 (74,763 – 72,567) or 2.99% (2,196 / 73,522)

The Equal Protection Clause also prohibits racial gerrymandering, in which “racial considerations predominate[.]” over traditional redistricting criteria, unless the consideration of race can survive strict scrutiny. *Cooper v. Harris*, 581 U.S. 285, 291–92 (2017). Put another way, if “race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district,” the plan violates the Equal Protection Clause unless such considerations satisfy strict scrutiny. *Miller v. Johnson*, 515 U.S. 900, 916 (1995). In *Shaw v. Reno*, 509 U.S. 630 (1993), the U.S. Supreme Court explained that racial gerrymandering can “injure voters,” whether or not “it dilutes a racial group’s voting strength.” *Id.* at 650. That is because, as the Supreme Court clarified, drawing districts based upon racial considerations “reinforces racial stereotypes and threatens to undermine our system of representative democracy by signaling to elected officials that they represent a particular racial group rather than their constituency as a whole.” *Id.* Thus far, compliance with § 2 of the Voting Rights Act of 1965 (“VRA”), is the only justification for drawing lines based upon race that the Supreme Court has accepted. *See Wis. Legis. v. Wis. Elections Comm’n*, 142 S. Ct. 1245, 1248–50 (2022).<sup>7</sup> And while the Court has not yet definitively ruled on whether other justifications could ever permit the drawing of any district based upon race, Justice Kennedy in his controlling opinion in *League of United Latin American Citizens v. Perry (LULAC)*, 548 U.S. 399 (2006), warned against any approach that “would unnecessarily infuse race into virtually every redistricting, [as] raising serious constitutional questions.” *Id.* at 446 (Kennedy, J.). The Supreme Court has recently shown especially great skepticism to race-based redistricting not strictly mandated by Section 2 of the VRA—including race-based districting that seeks to obtain certain racial targets or percentages of 50% or more of a district—in *Cooper* and *Wisconsin Legislature*.

The Proposed Revised Map does not subordinate traditional redistricting criteria to “racial considerations,” and is thus not a racial gerrymander. *See Cooper*, 581 U.S. at 291–92. Rather, as explained below and in the Appendix to this memorandum, the Map is focused on traditional criteria, such as ensuring district compactness and contiguity, reflecting population shifts, maintaining population equality, increasing ease of political

<sup>7</sup> In *Merrill v. Milligan*—a case currently pending the U.S. Supreme Court’s decision on the merits—some members of the Court acknowledged that its “case law in this area is notoriously unclear and confusing” and the Court will directly address the question of “whether a second majority-minority congressional district is required by the Voting Rights Act and not prohibited by the Equal Protection Clause” in the context of congressional redistricting in Alabama. *Merrill v. Milligan*, 142 S. Ct. 879, 881 (2022) (Kavanaugh, J., concurring in grant of applications for stays).



administration, minimizing community splits, and keeping together established and emerging communities of interest, while complying with all legal requirements.

Unfortunately, the maps proposed by both the Republican members of the Commission and the Democratic members of the Commission appear to be unconstitutionally racially gerrymandered. As noted by the New York Civil Liberties Union (“NYCLU”) in its submission to the Commission, the Republican members of the Commission’s proposed map purposefully creates a race-focused district in violation of the Equal Protection Clause’s prohibition against racial gerrymandering, based upon the same caselaw outlined above. NYCLU Nassau Cnty., *Testimony of the NYCLU, Nassau County Region Before the Nassau County Temporary Districting Advisory Commission Regarding Proposed Redistricting Plans for the Nassau County Legislature 2–4* (Nov. 16, 2022). The Republican members of the Commission offered no substantive response to the NYCLU’s constitutional objections. See Nassau Cnty., TDAC Republican Comm’rs, *Report (“Republican Report”)*.<sup>8</sup> The proposed map from Democratic members of the Commission also appears to be an unconstitutional racial gerrymander, as it admittedly (and, frankly, proudly) “place[s] a significant number of voters” into multiple districts based upon their race, without any basis in Section 2 of the VRA. *Miller*, 515 U.S. at 916; see Nassau Cnty., TDAC Democratic Comm’rs, *Report to Nassau County Legislature from the Democratic Commissioners of the Temporary Districting Advisory Commission 22* (Jan. 6, 2023) (“*Democratic Report*”). Although the memorandum accompanying the Democratic members of the Commission’s submission discussed numerous requirements related to redistricting, *id.* at 22–23, that memorandum nowhere tries to square their admittedly race-focused redistricting with the Equal Protection Clause under *Wisconsin Legislature*, 142 S. Ct. 1245, *Cooper*, 581 U.S. 285, *Miller*, 515 U.S. 900, and *Shaw*, 509 U.S. 630. See *Democratic Report* at 22. Especially given the Supreme Court’s recent skepticism toward race-focused redistricting, adopting either of these proposed maps would subject the Legislature to a racial-gerrymandering lawsuit that the Legislature is unlikely to win, thereby forcing the Legislature to redraw the racially gerrymandered district(s).

Finally, the supplemental reports submitted by Dr. Megan Gall and the Democratic members of the Commission—each criticizing the Original Proposed Map—both suffer from the same failure as the prior analysis from these parties, nowhere even attempting to explain how their approach is consistent with *Wisconsin Legislature*, *Cooper*, *Miller*, or *Shaw*. Megan Gall, PhD, GISP, *Supplemental Analysis of County Legislative Districts in Nassau County, New York* (Feb. 16, 2023); Democratic Members of the Temporary Districting Advisory Committee, *Supplemental Report to Nassau County Legislature from the Democratic Commissioners of the Temporary Districting Advisory Committee* (Feb. 16, 2023) (“*Democratic Supp. Report*”). Dr. Gall repeated this error in her second supplemental report submitted to the Nassau County Legislature, nowhere explaining how her attempts at racially based district drawing complied with the applicable Supreme Court precedent. Megan Gall, PhD, *Supplemental Analysis of County Legislative Districts in Nassau County, New York* (Feb. 22, 2023). In particular, these reports criticize the Original Proposed Map because it was not purposefully drawn to specific racial targets, attacking the Original Proposed Map “because

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<sup>8</sup> Available at [https://www.nassaucountyny.gov/DocumentCenter/View/39224/2-NassauCountyRedistrictingReport\\_20221121](https://www.nassaucountyny.gov/DocumentCenter/View/39224/2-NassauCountyRedistrictingReport_20221121).





it contains only four majority-minority legislative districts (using VAP data) and only three such districts, measured by CVAP data.” *Democratic Supp. Report* at 2. As noted above, in creating and evaluating the Proposed Revised Map, the Presiding Officer—under advice of Troutman Pepper LLP—declined to consider racial demographics, including declining any invitation to draw districts to reach racial targets. However, in accommodating the community-of-interest-based proposed changes discussed in Part I, and then making necessary adjustments to achieve population equality, the Proposed Revised Map now does, in fact, contain five districts where racial minorities make up the majority of the district, as measured by VAP, and four districts where racial minorities make up the majority of the district, as measured by CVAP. Again, this Memorandum strongly emphasizes that this particular demographic mix resulted entirely from nonracial considerations, and thus complies fully with the Equal Protection Clause.<sup>9</sup>

*Voting Rights Act of 1964*. At all levels, redistricting must meet the standards set forth in the VRA. See 52 U.S.C. § 10301 (formerly codified at 42 U.S.C. § 1973). The VRA acts to ensure “that a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.” *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972). As relevant here, § 2 of the VRA prohibits states or their political subdivisions from imposing or applying any “voting qualification[,] . . . standard, practice, or procedure” that “results in a denial or abridgement of the right . . . to vote on account of race or color.” 52 U.S.C. § 10301(a). Under this Section, a court can invalidate district lines if a minority group demonstrates, “based on the totality of circumstances,” that a State’s “political processes . . . are not equally open to participation” by its members in that they “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.*; see also 52 U.S.C. § 10302(b). Often, this entails members of a protected group claiming that the current form of districting constitutes “vote dilution.” *Thornburg v. Gingles*, 478 U.S. 30, 31 (1986). In *Gingles*, the U.S. Supreme Court established a framework for evaluating such claims and determined that whether the political processes are truly “equally open” to the minority group will depend upon “a searching practical evaluation of the past and present reality, and on a functional view of the political process.” *Id.* at 45, 50–51 (citations omitted). *Gingles* laid out three “necessary preconditions” that a minority group must satisfy to state a prima facie case for a § 2 violation. *Id.* at 50–51. Under the first precondition, the minority group must show that it “is sufficiently large and geographically compact to constitute a majority in a single-member district.” *Id.* at 50. The second precondition requires the minority group to prove that it “is politically cohesive,” meaning that statistical and qualitative data show that “a significant number” of the group members usually vote for the same, “preferred candidate.” *Id.* at 51–

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<sup>9</sup> At the February 16 Full Legislature Meeting, Dr. Magleby stated that he believed there was a “revealed understanding” by “Republicans” in favor of four majority-minority districts that he coded into his analysis. Feb. 16 Meeting Recording at 4:09:55–4:12:14. At least as an account of both the Original Proposed Map and the Revised Proposed Map, that supposition is flatly and entirely false, given that neither Map was drawn to any racial targets at all. That each Map happened to have a certain number of districts where racial minorities make up the majority of the district was entirely a result of the Map’s compliance with all legal criteria, including considerations of communities of interest.



53, 56. And the third precondition requires that a “white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Id.* at 51. While the three conditions are necessary to state a § 2 violation, they are not sufficient to do so. *Johnson v. De Grandy*, 512 U.S. 997, 1011–12 (1994). Only if a party satisfies these three requirements, will the Court consider whether a violation has occurred based on “the totality of circumstances.” *Id.* If the minority group meets the threshold requirements and the totality of circumstances shows a violation by a preponderance of the evidence, then a court *may* order the creation of a new majority-minority district to remedy a State’s violation of federal law. *Voinovich v. Quilter*, 507 U.S. 146, 156–58 (1993).

Sean Trende, a noted redistricting expert, conducted a *Gingles* precondition analysis of the County and the Proposed Revised Map, and concluded that Nassau County contains no districts meeting the *Gingles* preconditions that would require or permit the creation of any race-focused districts, for purposes of compliance with § 2 of the VRA. That is why, consistent with the discussion of the Equal Protection Clause immediately above, the Proposed Revised Map continues to decline to draw any districts to any racial targets.

*Home Rule Law And The John R. Lewis New York Voting Rights Act.* New York’s Municipal Home Rule Law and the John R. Lewis New York Voting Rights Act (“NYVRA”) require New York municipalities to comply with certain standards when proposing a plan of districting or redistricting. These standards are: (1) districts shall be as nearly equal in population as is practicable, with the difference in population between the most and least populous district not exceeding five percent of the mean population of all districts; (2) districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minority groups to participate in the political process or to diminish their ability to elect representatives of their choice; (3) districts shall consist of contiguous territory; (4) districts shall be as compact in form as practicable; (5) districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties; (6) the maintenance of cores of existing districts, of pre-existing political subdivisions including cities, villages, and towns, and of communities of interest shall also be considered, and to the extent practicable, no villages or cities or towns except those having more than forty percent of a full ratio for each district shall be divided; and (7) districts shall be formed so as to promote the orderly and efficient administration of elections. N.Y. Mun. Home R. L. § 10(1)(a)(13)(a). The Proposed Revised Map fully complies with all of these standards.

*First*, the Proposed Revised Map’s districts are “as nearly equal in population as is practicable” with the “difference in population between the most and least populous district not exceed[ing] five percent of the mean population of all districts.” N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(i). The average population of the County’s nineteen districts is 73,522 persons. *Supra* Table 1. The County’s largest district (proposed District 18) contains 74,763 persons and the County’s smallest district (proposed District 16) contains 72,567 persons, making the difference between them 2,196 persons, which amounts to 2.99% of the average district population. *Id.* Thus, with a deviation of only 2.99%, *id.*—well below the 5% threshold, N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(i)—the plan significantly outperforms the statutory requirements.



*Second*, the Proposed Revised Map does not include any districts that have been drawn “with the intent or result of denying or abridging the equal opportunity of racial or language minority groups to participate in the political process or to diminish their ability to elect representatives of their choice.” N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(ii). This state-law provision must be understood in light of the U.S. Supreme Court’s Equal Protection Clause caselaw prohibiting racial gerrymandering discussed above, the principle of constitutional avoidance, and the U.S. Constitution’s Supremacy Clause. *See* U.S. Const. art. VI, cl. 2. Indeed, New York law has long incorporated an interpretive “assum[ption] that the Legislature intended to enact a statute which was in harmony with the United States Constitution and the Constitution of the State of New York.” *People v. Epton*, 19 N.Y.2d 496, 505 (1967). And, beyond that interpretive assumption, the State Legislature has explicitly provided that New York election law is to be interpreted “in conjunction with the constitutional guarantees of equal protection.” N.Y. Elec. L. § 17-200. As previously noted, *supra* p.4 n.5, the New York Constitution’s equal-protection guarantees, *see* N.Y. Const. art. I, § 11, have been interpreted to be “coextensive with those under the U.S. Constitution,” *Congregation Rabbinical Coll. of Tartikov*, 945 F.3d at 110 (citing *Kern*, 75 N.Y.2d at 649).

Thus, while the NYVRA requires that the Proposed Revised Map “[e]nsure that eligible voters who are members of racial, color, and language-minority groups shall have an equal opportunity to participate in the political processes of the state of New York, and especially to exercise the elective franchise,” N.Y. Elec. L. § 17-200(2), and consider “members of a protected class,” *see* N.Y. Elec. L. § 17-206(2), that law *at the same time* mandates that any map may not be a racial gerrymander, defined by the U.S. Supreme Court as involving “racial considerations predominat[ing] over” traditional redistricting criteria, *Cooper*, 581 U.S. at 292. In consideration of the balance of these principles, the Proposed Revised Map does not subordinate any other traditional redistricting criteria “such as compactness, contiguity, and respect for political subdivisions” to draw district lines based upon race. *Id.* at 291–92. As shown in the contemporaneously provided Appendix, the Proposed Revised Map honors and keeps together communities of interest, which are not constitutionally suspect considerations, unlike race. *See Shaw*, 509 U.S. at 642–43. The Proposed Revised Map also complies with § 2 of the VRA, including based upon Sean Trende’s analysis under the *Gingles* preconditions. Accordingly, the Proposed Revised Map complies with the Municipal Home Rule Law and NYVRA, as well as all other related legal requirements applicable to the consideration of race in redistricting, including by declining all requests to draw any districts to any racial targets, in order to remain in compliance with the Equal Protection Clause. So, while the Proposed Revised Map does contain five districts where racial minorities make up the majority of the district, as measured by VAP, and four districts where racial minorities make up the majority of the district, as measured by CVAP, this particular demographic mix resulted entirely from nonracial considerations. *See supra* pp.7–8.

*Third*, each of the Proposed Revised Map’s districts “consist[s] of contiguous territory.” *See* N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(iii). Under New York law, contiguous territory means “territory touching, adjoining and connected, as distinguished from territory separated by other territory.” *Schneider v. Rockefeller*, 31 N.Y.2d 420, 429 (1972) (citation omitted). In the redistricting context, this does not mean that no “part of a district is divided by water,” but rather that in none of the districts “is it necessary to travel through an



adjoining district to keep within the boundaries of the [first] district.” *Id.* at 430 (citations omitted). A close examination of the Proposed Revised Map reveals that each of the nineteen proposed districts has completely contiguous boundary lines that respect existing and historical geographical boundaries and which are not irregular in shape. *See Shaw*, 509 U.S. at 647 (stating that “reapportionment is one area in which appearances do matter”). Thus, the Proposed Revised Map satisfies New York’s contiguity requirement. *See Schneider*, 31 N.Y.2d at 429–430.

*Fourth*, each of the districts within the Proposed Revised Map is drawn to be “as compact in form as practicable.” *See* N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(iv); *Wolpoff*, 80 N.Y.2d at 76–77 (recognizing the state constitutional requirement that districts “be in as compact form as practicable”). Compactness requirements generally leave to a redistricting body “the determination and discretion of . . . the degree of compactness which is possible,” acknowledging that redistricting officials can, “in good faith, take account of existing political subdivision lines, topography, means of transportation and lines of communication,” even if doing so results in “boundaries that are ragged at best,” so long as a map is not “a complete departure” from the goal of compact districts. *Schneider*, 31 N.Y.2d at 429–30. Moreover, the U.S. Supreme Court has recognized the utility of evaluating “a mathematical standard of compactness” for a district, meaning the use of various statistical and mathematical tests to determine map and district compactness. *Karcher*, 462 U.S. at 755–58 (Stevens, J., concurring) (observing that “scholars have set forth a number of methods of measuring compactness that can be computed with virtually the same degree of precision as a population count”). One of these tests is the Polsby-Popper test, which measures “the ratio of the area of the district to the area of a circle with the same perimeter,” in order to determine the compactness of a given district as a score between zero (indicating a complete lack of compactness) and one (indicating maximal compactness). *See* Nina Rose Gliozzo, *Judicial Embrace of Racial Gerrymandering Cases*, 70 *Hastings L.J.* 1331, 1336 (2019). Another popular measure for determining map and district compactness is the Reock score, which “quantif[ies] dispersion” by measuring “the ratio of the area of a district to the area of the minimum bounding circle that encloses that district.” *Id.* Under Reock, “a perfectly circular district would receive a score of ‘1’, a perfect square a score of ‘.64’, and less compact districts receive smaller scores.” Stephen Ansolabehere & Maxwell Palmer, *A Two Hundred-Year Statistical History of the Gerrymander* 3 (May 16, 2015).<sup>10</sup> Even though the County has numerous coastal borders, which can reduce compactness scores under the Polsby-Popper test, *see id.* at 7, the Proposed Revised Map maintains strong compactness scores under that measure, with an overall compactness score of 0.321. The Proposed Revised Map is similarly successful under Reock, with an overall compactness score of 0.407 under that test.

The following chart lists the scores for each of the nineteen proposed districts, each of which score very well under Polsby-Popper (even taking into account the extensive coastline in the County) and Reock:

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<sup>10</sup> Available at [https://www.vanderbilt.edu/csdi/events/ansolabehere\\_palmer\\_gerrymander.pdf](https://www.vanderbilt.edu/csdi/events/ansolabehere_palmer_gerrymander.pdf).



**Table 2. Polsby-Popper & Reock Scores For Each District Under County Legislature's Proposed Revised Map**

District	Polsby-Popper Score	Reock Score
District 1	0.20	0.28
District 2	0.21	0.29
District 3	0.42	0.44
District 4	0.40	0.38
District 5	0.27	0.38
District 6	0.23	0.42
District 7	0.37	0.61
District 8	0.29	0.29
District 9	0.23	0.22
District 10	0.41	0.48
District 11	0.36	0.44
District 12	0.35	0.51
District 13	0.44	0.46
District 14	0.25	0.41
District 15	0.39	0.41
District 16	0.26	0.41
District 17	0.42	0.45
District 18	0.21	0.24
District 19	0.40	0.62
<b>Overall Map:</b>	0.321	0.407



The Proposed Revised Map is compact and satisfies this requirement. The Proposed Revised Map remains successful on the criterion of compactness when compared to the proposals of the Democratic members of Commission and the Republican members of the Commission. The Proposed Revised Map is comparable to the Democratic members' plan, which scores 0.371 on Polsby-Popper and 0.405 on Reock. The Republican members' plan, on the other hand, scores worse than the Proposed Revised Map on compactness, with a 0.248 score on Polsby-Popper and 0.346 Reock score.

*Fifth*, the Proposed Revised Map does not draw any of the districts “to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties.” See N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(v).

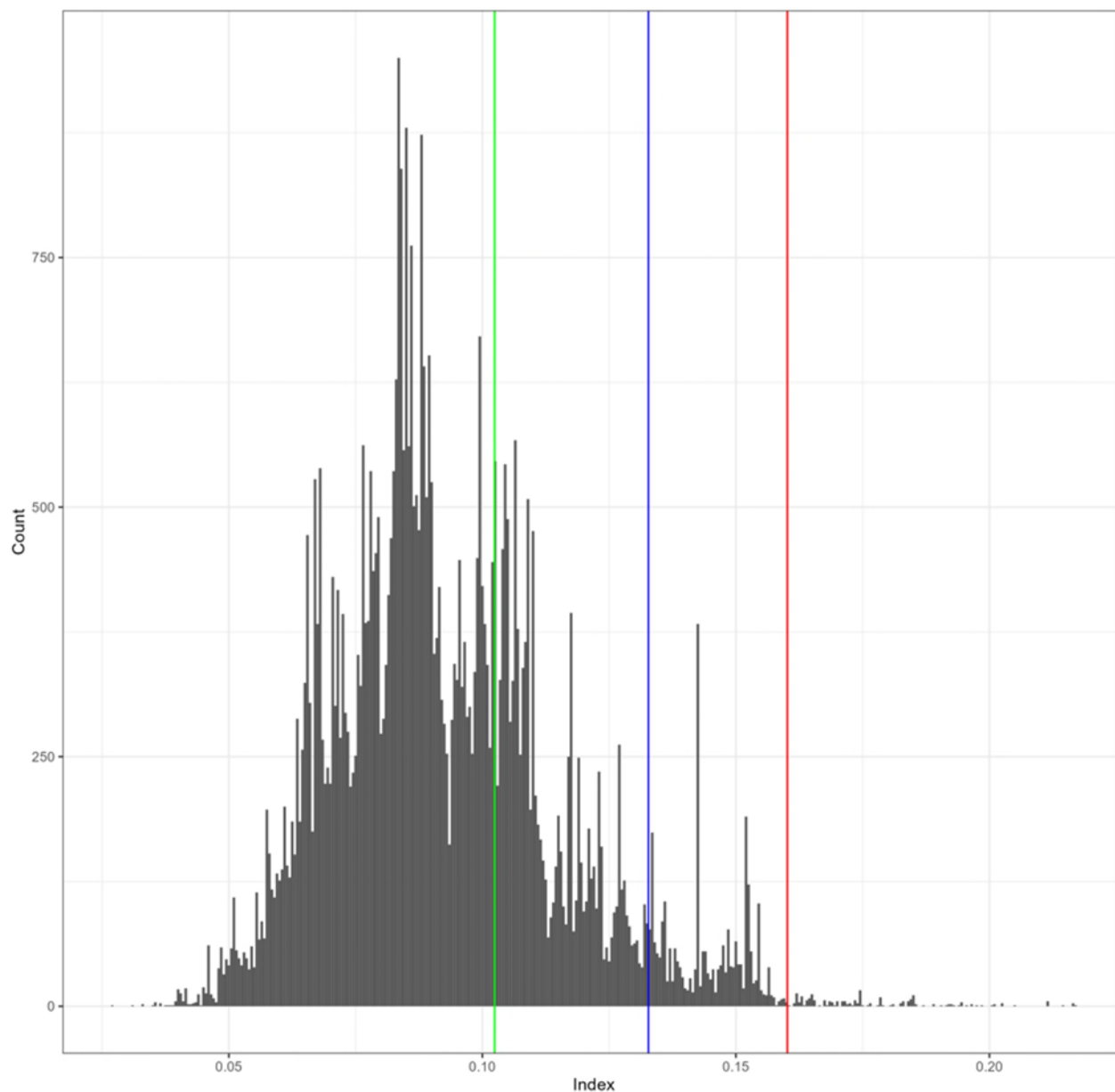
The Court of Appeals recently addressed substantively identical language prohibiting partisan gerrymandering under state law in *Harkenrider v. Hochul*, 38 N.Y.3d 494 (2022). In *Harkenrider*, the plaintiffs successfully relied on expert testimony from Sean Trende to establish “an inference of invidious partisan purpose . . . to discourage competition and favor Democrats.” *Id.* at 519–20 (citation omitted). Sean Trende’s opinion and supporting simulation analysis was crucial in the plaintiffs’ victory both at trial and on appeal. See *id.* at 520 n.14. He used “a state-of-the-art program repeatedly accepted by other courts” to create a “map ensemble” which “perform[ed] comparably to the enacted plan in terms of compactness, minority-majority districts, and county lines.” *Id.* (citations omitted). His simulations “revealed that the enacted map was an extreme outlier that likely reduced the number of Republican congressional seats . . . by packing Republican voters into four discrete districts and cracking Republican voter blocks across the remaining districts in such manner as to dilute the strength of their vote and render such districts noncompetitive.” *Id.* at 506 (citations omitted). Based on the “evidence of the largely one-party process used to enact the 2022 congressional map, a comparison of the 2022 congressional map to the 2012 congressional map, and the expert opinion and supporting analysis of Sean P. Trende,” the Court of Appeals found that the record was sufficient to conclude the maps had been drawn with the impermissible purpose of “discourag[ing] competition and favor[ing] democrats.” *Id.* at 508–09, 519–20. Thus, the Court affirmed the relevant judgment in favor of the plaintiffs.

Cognizant of the prohibition against partisan gerrymandering, as well as *Harkenrider*, the Proposed Revised Map was not drawn “to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties.” See N.Y. Mun. Home R. L. § 10(1)(a)(13)(a). But to avoid even the perception of partisanship, the Presiding Officer asked Counsel to retain Sean Trende—the expert at issue in *Harkenrider*—to determine whether the Proposed Revised Map, as well as the maps proposed by the Democratic and Republican members of the Commission, satisfies the partisan fairness metrics at issue in that case. As shown in the below Chart 1, Sean Trende evaluated the Proposed Revised Map using the same approach that he used in *Harkenrider* and concluded that it very clearly met the standards under that approach. That Map, identified with a green line in the chart, has a gerrymandering index of just over 0.10, well within the bell curve of the range of computer simulated maps. Thus, Sean Trende concluded that the Proposed Revised Map very clearly satisfied the criteria at issue in *Harkenrider*. On the other hand, the Democratic members of the Commission’s map, as indicated by the blue line, has a gerrymandering-index score of over 0.13, further down the tail of the plotted



simulations. And the Republican members of the Commission’s map, shown with the red line, has a gerrymandering-index score of approximately 0.16, also well within the tail of the plotted simulations. While neither of these scores is as egregious as the ones at issue for the congressional map struck down in *Harkenrider*, the two proposed Commission maps perform far worse on the *Harkenrider* metric, as analyzed by the lead expert in that case. On the other hand, again, the Proposed Revised Map performs well on that metric.

**Chart 1. Gerrymandering Index Scores**  
(Green line for Proposed Revised Map; Blue line for Democratic Members’ Map; and Red line for GOP Members’ Map)





Notably, the approach used by Professor Magleby—which he claimed supported the map submitted by the Democratic members of the Commission in terms of partisanship—is entirely different from the approach that Sean Trende employed in *Harkenrider*. Among multiple important differences, Professor Magleby does not use the gerrymandering-index analysis that Sean Trende used in *Harkenrider*, and, instead, focuses his analysis upon a mean-median metric that no expert or court opined on in *Harkenrider*. Daniel B. Magleby, Ph.D, *An Evaluation of Proposed Maps of Nassau County’s Legislative Districts for Compliance with the Municipal Home Rule Law 65* (Dec. 29, 2022) (“Magleby Report”), Attached as Exhibit A to *Democratic Report*. Furthermore, Professor Magleby did not disclose to the Nassau County Legislature that he utilized an entirely different approach than that affirmed by the Court of Appeals in *Harkenrider*, and misleadingly suggested in his reports before February 16 that he actually was using that same approach. See Magleby Report at 23, 32–33, 51–52, 59.

Professor Magleby’s February 16 testimony—in which he sought to defend his supplemental report’s attack on the Original Proposed Map—finally admitted that he was simply using a different approach than the one that Sean Trende used in *Harkenrider*. See Daniel Magleby, PhD, *An Evaluation of the February 9 Republican Proposal for Compliance with the Municipal Home Rule Law Prohibition Against Drawing Districts Favoring Political Parties* (Feb. 14, 2023).<sup>11</sup> On February 16, Professor Magleby now attacked Sean Trende’s approach as having—in Professor Magleby’s view—insufficient citations when searched on Google Scholar. See Feb. 16 Meeting Recording at 2:52:57–2:53:26.<sup>12</sup> The courts in *Harkenrider* considered similar foundational critiques offered against Sean Trende’s approach, see, e.g., Brief for Respondent-Appellant Speaker of the Assembly Carl Heastie, NYSCEF No.31, at 4, 38–39, 48–52, *Harkenrider v. Hochul*, No. CAE 22-00506 (4th Dep’t Apr. 13, 2022); Brief for Respondent-Appellant Senate Majority Leader and President Pro Tempore of the Senate Andrea Stewart-Cousins, NYSCEF No.32, *Harkenrider v. Hochul*, No. CAE 22-00506 at 29, 30–32 (4th Dep’t Apr. 13, 2022), and nevertheless rejected the map at issue there, in significant part, based upon Sean Trende’s approach.

So while Professor Magleby was defensive during his testimony with regard to the criticism of his approach offered by the prior version of this Memorandum, appearing to believe that the prior Memorandum was attempting to call into doubt his academic bona fides in some respect, he was, with all respect, confused. The prior memorandum’s point was that Professor Magleby’s mean-median analysis was *entirely different* from the one that Sean Trende used in *Harkenrider*, and that it would be “unwise” for the Legislature to rely upon Professor Magleby’s approach in deciding what map to adopt, given that Sean Trende’s

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<sup>11</sup> Professor Magleby reiterated his use of this different approach in his second supplemental report as well, acknowledging that he “compute[d] a mean-median difference in Democratic candidates’ district-level support,” Daniel Magleby, PhD, *An Associate of the February 21 Republican Proposal for Compliance with the Municipal Home Rule Law Prohibition Against Drawing Districts Favoring Political Parties*, 1–2 (Feb. 24, 2023), which is not the same as the gerrymandering-index analysis employed by Sean Trende both in *Harkenrider* and here.

<sup>12</sup> Available at <http://nassaucountyny.iqm2.com/Citizens/SplitView.aspx?DVR=True&Mode=Video&MeetingID=2093>.





approach had already been tested and prevailed in New York courts, including at the Court of Appeals. Troutman Pepper, *Proposed Redistricting Plan for Nassau County Legislature Districts 11* (Feb. 16, 2023). The mean-median metric that is the core of Professor Magleby's method is just one species of a class of metrics broadly classified as "partisan symmetry" metrics that—as a category of metrics—played no role in Sean Trende's approach at issue in *Harkenrider*. Having said that, and with regard to mean-median, in particular, this metric—which focuses on only one district within a distribution—has serious drawbacks even within the context of available partisan symmetry metrics, including that there is "no proof that it is an unbiased or consistent estimator." See, e.g., Jonathan N. Katz, et al., *Theoretical Foundations and Empirical Evaluations of Partisan Fairness in District-Based Democracies* 10–11, *Am. Pol. Sci. Rev.* (2019).<sup>13</sup> To take just a concrete example of this metric's problems that is particularly important for any legislative body drawing districts in New York, Sean Trende points out that the egregious pro-Democrat gerrymander that the Court of Appeals invalidated in *Harkenrider* scores as a slightly *pro-Republican* map under the mean-median metric. Accordingly, it is far safer for the Legislature to rely upon the approach that prevailed in *Harkenrider*, rather than this different one urged by Professor Magleby, which apparently would have blessed the *Harkenrider* gerrymander.

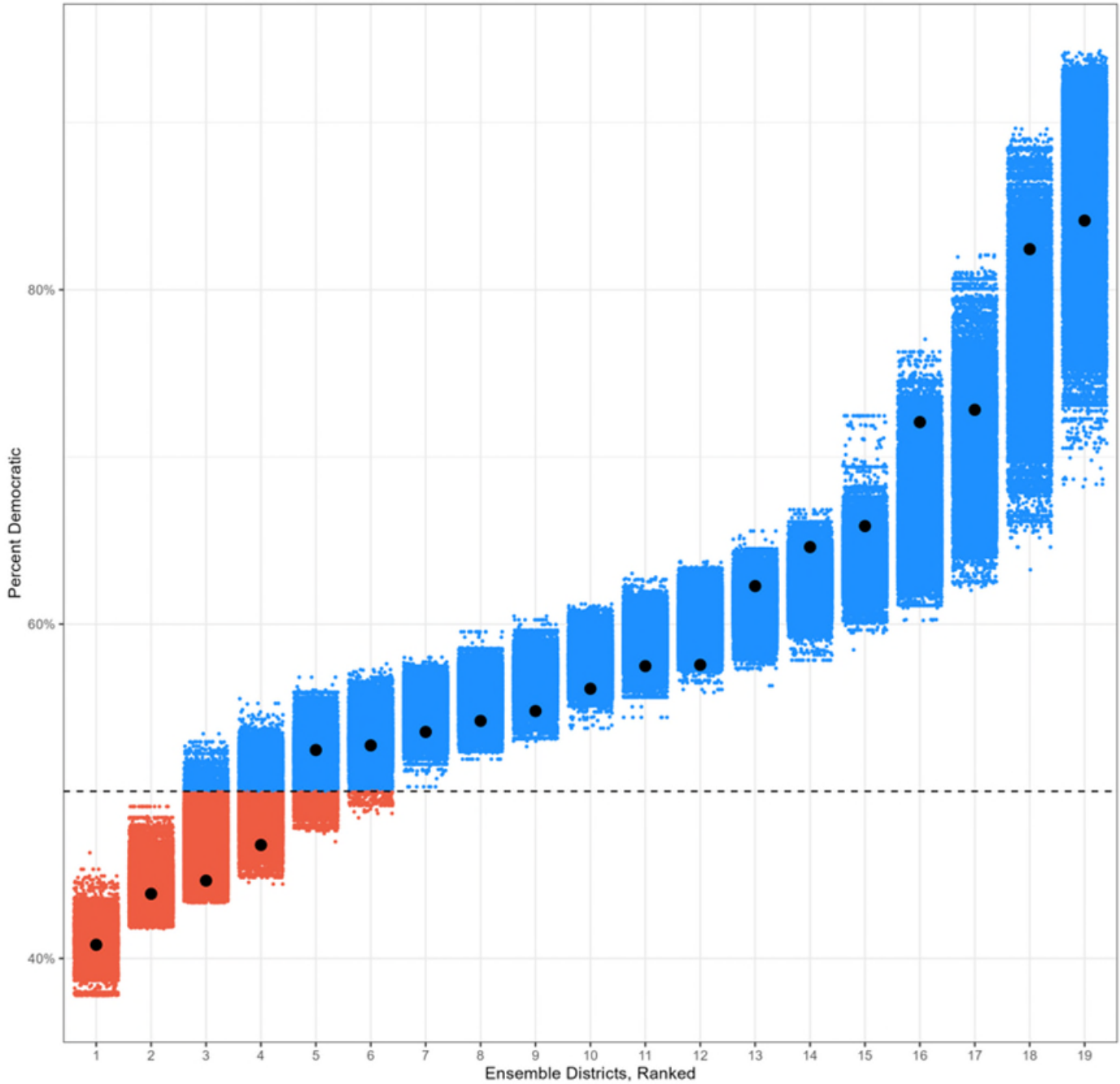
Moreover, in his testimony at the February 16, 2023, Full Legislature Meeting, Professor Magleby falsely claimed that Sean Trende did not conduct a dotplot analysis of the Original Proposed Map, thereby undercutting Sean Trende's analysis. Feb. 16 Meeting Recording at 2:51:15–2:51:40. But as Sean Trende explored in great detail in *Harkenrider*, conducting a dotplot analysis is a *necessary step* to generate the gerrymandering-index analysis; indeed, creating a dotplot analysis is how one *creates* a gerrymandering index. See, e.g., Expert Report of Sean P. Trende, NYSCEF No.26 at 10–21, *Harkenrider v. Hochul*, Index No. E2022-0116CV (Steuben Sup. Ct. Feb. 14, 2022). Regardless, and to dispel any of these mistaken concerns raised by Professor Magleby's testimony on this point, Sean Trende's dotplot analysis of the Proposed Revised Map is provided below, in Chart 2. The proposed districts are ordered from least to most Democratic, with each individual district shown as a range from the ensemble, and the Proposed Revised Map's "percent Democratic" measure shown as a black dot. As evident from Chart 2, each of the nineteen proposed districts in the Proposed Revised Map fall within the range of the ensemble maps under this dotplot analysis, which is just what Mr. Trende's gerrymandering index reflects.

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<sup>13</sup> Available at [https://gking.harvard.edu/files/gking/files/theoretical\\_foundations\\_and\\_empirical\\_evaluations\\_of\\_partisan\\_fairness\\_in\\_districtbased\\_democracies.pdf](https://gking.harvard.edu/files/gking/files/theoretical_foundations_and_empirical_evaluations_of_partisan_fairness_in_districtbased_democracies.pdf).



**Chart 2. Dotplot Analysis of Proposed Revised Map**  
(Proposed Revised Map shown as black dot within range of ensemble districts)





Finally, at the February 16 Full Legislature Meeting, Professor Magleby criticized Sean Trende for using the same statewide races that he used in *Harkenrider* to determine the partisanship baseline for his simulation analysis. Feb. 16 Meeting Recording at 3:00:10–3:02:30. But as Counsel for the Presiding Officer pointed out on February 16, not only was Sean Trende’s approach the same one he used in *Harkenrider*, Professor Magleby nowhere in his report provided any citation to support his claim that he “use[d] county races . . . because scholars have shown those data to be reliable predictors of future behavior.” Magleby Report at 19; Feb. 16 Meeting Recording at 1:06:14–1:06:27. Relatedly, Counsel pointed out that he was not aware of any case where an expert had used local races—rather than statewide races—to establish a partisanship baseline for purposes of a simulation analysis, although Counsel could not rule out that such a case had existed somewhere in the country. Feb. 16 Meeting Recording at 2:29:50–2:31:24. During his testimony immediately thereafter, Professor Magleby did not identify any such case, nor provide any scholarly support for using local rather than statewide races to establish the partisanship baseline.

Nevertheless, after the conclusion of the February 16 Full Legislature Meeting, the Presiding Officer, through Counsel, requested that Sean Trende reconduct his analysis using same countywide races that Professor Magleby used, out of completeness. Sean Trende thereafter did, in fact, conduct this supplemental analysis and reported results using these same countywide races that were entirely consistent with those that he had obtained using the statewide races he used in *Harkenrider*, thus only further confirming Trende’s conclusions with regard to the Revised Proposed Map. Further, when using Professor Magleby’s countywide races, Trende again found that the Proposed Revised Map outperformed the map proposed by the Democratic members of the Commission on the *Harkenrider* analysis, while Democratic members’ map outperformed the map proposed by the Republican members of the Commission. Thus, while this Memorandum continues to believe that Sean Trende’s use of the *Harkenrider* statewide races is the proper approach for the Legislature to adopt in making its decision, the Memorandum’s recommendations would be the same even if the Legislature were to—incorrectly, in this Memorandum’s view—conclude that only the countywide races that Professor Magleby prefers should be used to establish the partisanship baseline for purposes of the *Harkenrider* analysis.

*Sixth*, as outlined in the attached Appendix, the Proposed Revised Map maintains the “cores of existing districts,” “pre-existing political subdivisions . . . and communities of interest.” See N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(v). Each of the proposed districts was drawn to, as best as practicable, show “respect for political subdivisions or communities defined by actual shared interests,” *Miller*, 515 U.S. at 916. The Proposed Revised Map also complies with the requirement that “[t]o the extent practicable, no villages or cities or towns except those having more than forty percent of a full ratio for each district shall be divided.” See N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(v). It does not split any city, town, or village within Nassau County that has a population equal to or less than 40% of a “full ratio” of a district, which is the “figure arrived at by dividing the population of the County . . . by the number of districts.” *Slater v. Bd. of Sup’rs of Cortland Cnty.*, 330 N.Y.S.2d 947, 950 (N.Y. Sup. Ct. 1972), *aff’d*, 346 N.Y.S.2d 185 (1973). Nassau County has a total population of 1,396,925, and nineteen legislative districts, making the average population of each district 73,522. See *supra* Table 1. The Proposed Revised Map does not divide any cities, towns, or villages with fewer than 29,409 persons (73,522 x 0.40), thus complying with this



requirement. Further, as explained in the accompanying Appendix, the districts in the Proposed Revised Map all minimize town and village splits as much as possible, reducing the number of such splits from the prior enacted map.

The maps proposed by the Democratic members of the Commission and the Republican members of the Commission fail to comply with these mandatory criteria, even granting that a court would be unlikely to invalidate either map, if adopted, based only upon this infirmity, given the deference provided to legislatures in balancing competing redistricting considerations. *See Wolpoff*, 80 N.Y.2d at 79. The Democratic members of the Commission's map does not take into account the "cores of existing districts," N.Y. Mun. Home R. L. § 10(1)(a)(13)(a), at all. *See Democratic Report* at 22–23. On the other hand, the Republican members of the Commission's map appears to place undue weight on this criterion, among others. *See Republican Report* at 3. In addition to these problems, both of those submissions appear to unnecessarily break up a series of "pre-existing political subdivisions . . . and communities of interest," without explicitly offering any justification for doing so. *See* N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(v).

At the February 16, 2023, Full Legislature Meeting, various Legislators, including Minority Leader Abrahams, criticized the prior proposal for its community-of-interest considerations and for failure to consider how the map would place incumbent Legislators in various districts. Feb. 16 Meeting Recording at 0:44:38–0:44:45; *see also Democratic Supp. Report* at 3. But, as explained at the Meeting, communities of interest have been broadly outlined as groups of persons "defined by actual shared interests," *Miller*, 515 U.S. at 916, including such factors as the "major transportation lines" that serve a region, *see Bush v. Vera*, 517 U.S. 952, 966 (1996). *See* Feb. 16 Meeting Recording at 1:21:09–1:21:27, 1:22:58–1:23:09. Moreover, as also explained at the Full Legislature Meeting, New York law prohibits drawing maps "for the purpose of favoring or disfavoring incumbents." N.Y. Mun. Home R. L. § 10(1)(a)(13)(a)(v); *see, e.g.*, Feb. 16 Meeting Recording at 1:01:19–1:01:29, 2:06:43–2:08:35. All of that having been said, the Presiding Officer took seriously the important community-of-interest testimony elicited at the Meeting from both Legislators and members of the public, and made significant changes in the Proposed Revised Map to reflect that testimony and recombine certain communities of interest with deep ties that were split in the prior proposal, to the extent practicable. *See supra* Part I. As an unintended result of these various community-of-interest-based changes, the Democratic members of the Commission's specific incumbent-based concern about the prior map's pairing of "a Democratic incumbent with a Republican incumbent in an overwhelmingly Republican district," *Democratic Supp. Report* at 3, is no longer relevant.

No better was the Minority Leader's attack on the Original Proposed Map for *agreeing* with the Democratic members of the Commission about the Republican members' overreliance on district cores. *See* Feb. 16 Meeting Recording at 0:44:45–0:45:40. As explained by Counsel at the February 16, 2023, Full Legislature Meeting, the Original Proposed Map adequately consider the cores of existing districts to the extent permissible, while also attempting to ensure that districts reflect communities of interest and comply with all other legal requirements, without putting too much emphasis on cores, as the Republican members of the Commission inappropriately had done. Feb. 16 Meeting Recording 2:10:56–



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2:12:06. The Proposed Revised Map takes the same approach to cores as did the Original Proposed Map, as further explained in the Appendix.

*Seventh and finally*, the Proposed Revised Map contains districts that have been “formed so as to promote the orderly and efficient administration of elections.” *See id.* Among other things, the proposed districts’ compactness and contiguity, as discussed above, strongly support this conclusion. *See Karcher*, 463 U.S. at 756–58 (Stevens, J., concurring) (reasoning that compactness “facilitates political organization, electoral campaigning, and constituent representation” and that contiguous districts “are administratively convenient and less likely to confuse the voters”).

## APPENDIX – DISTRICT DESCRIPTIONS

*District 1.* Proposed District 1 comprises parts of the Village of Hempstead and all of Rockville Centre. This district represents a cohesive community of interest, with these areas sharing municipal and community services, including coordinated mutual-aid fire services. Moreover, this district covers large, growing communities of interest served by local, community-based non-profit organizations, providing residents numerous programs and services. Further, the Village of Hempstead and Rockville Centre were already married in a single state Senate District in the recent statewide court-drawn redistricting in *Harkenrider*. As compared to the Original Proposed Map, proposed District 1 now does not include South Hempstead, which was removed to accommodate public comments and Legislator statements made at the February 16, 2023, Full Legislature Meeting.

*District 2.* Proposed District 2 includes Uniondale and parts of the Village of Hempstead including the Hempstead Heights area, Westbury and New Cassel. This district encompasses the central hub of Nassau County, keeps Westbury whole, and includes New Cassel, responding to criticism received from Legislator Bynoe. This district reunites the Uniondale School District and communities of interest that were split in prior redistricting plans, as well as fully encapsulating the “Yes We Can” Community Center, a significant recreation center that serves as a community hub for this region. Also, by keeping Uniondale whole, in a single district, and unifying Westbury and New Cassel, the Proposed Revised Map addresses concerns raised by the Democratic members of the Commission.

*District 3.* Proposed District 3 is composed of most of Valley Stream, North Valley Stream, and Elmont, and includes the Village of South Floral Park. This district maintains the essential core of the district under the prior enacted map. Proposed District 3 unites communities in the Sewanhaka Central High School District, Valley Stream Central High School District, and Elmont Union Free School District, as well as bringing together all of the interrelated mutual-aid fire services for this area in a single seat. These communities already share public-safety services, with all of these communities falling within Nassau County’s Fifth Precinct. Compared to the Original Proposed Map, proposed District 3 in the Proposed Revised Map now incorporates additional portions of Elmont to reunite the vast majority of that community of interest in a single district consistent with the compelling Legislator testimony offered at the Full Legislature Meeting. To accommodate these additional areas in Elmont, the Proposed Revised Map removed some portions of Valley Stream from proposed District 3, for population equalization purposes.

*District 4.* Proposed District 4 covers the Barrier Islands. This community of interest includes Atlantic Beach, East Atlantic Beach, the City of Long Beach, Lido Beach, Point Lookout, Harbor Isle, Island Park, Barnum Island, a large portion of Oceanside, and Bay Park. These are all largely beach communities with many similar interests, and which were all devastated by Hurricane Sandy. As a result, these communities had to rebuild, and they maintain a common interest in mutual support and aid in case of emergency. These communities share certain emergency services, including fire services, and partner together on municipal concerns like water, flooding, ambulance services, related health care, and more. Moreover, these communities share evacuation routes that run through each other’s territories. Compared to the Original Proposed Map, proposed District 4 now has additional portions of Oceanside, which were added for population-equality purposes to accommodate other changes requested by the public and Legislators.

District 5. Proposed District 5 includes most of North Merrick, parts of Merrick, most of Freeport, and portions of North Bellmore. These interconnected communities share numerous interests and have intermunicipal mutual-aid services for fire departments and ambulatory services. Consistent with this level of intermunicipal cooperation, these communities previously crafted common federal applications for aid after Hurricane Sandy. Beyond government operations, these communities also share extensive business interests, with Merrick and North Merrick even sharing a common Chamber of Commerce. Finally, these communities share the same rail line, an economic corridor that runs along both Sunrise Highway and Merrick Road, and have common interests related to that public transportation. Proposed District 5 in the Proposed Revised Map made various small adjustments, losing portions of North Merrick and Merrick, and adding portions of Freeport for population purposes, to accommodate other requests.

District 6. Proposed District 6 comprises Baldwin, Roosevelt, portions of Freeport, portions of Oceanside, and South Hempstead. These communities have a shared interest in redevelopment, as the State has already provided Baldwin substantial aid to develop its downtown areas and the entire district will be receiving substantial aid for community revitalization and park revitalization. Relatedly, the Baldwin Civic Association and the South Hempstead Civic Association are powerful forces for the communities in this district. In this iteration, portions of Oceanside and South Hempstead were added to proposed District 6 for population equality purposes, as well as unifying all of South Hempstead in a single district, consistent with Legislator testimony.

District 7. This district includes a portion of the Village of Valley Stream and combines the interconnected communities of the Five Towns, consistent with public comment urging them to be drawn together in the new map, bringing together Orthodox Jewish synagogues, train stations, and other services that serve these communities. Unifying the Five Towns is also consistent with concerns raised by Democratic members of the Commission. The municipalities within this district have extensive histories of intermunicipal communication and share fire services and public planning for flooding and flood zones, including establishing joint evacuation routes in case of serious flooding. Moreover, these communities are connected through related business-improvement and community-revitalization efforts, which they typically undergo jointly.

District 8. Proposed District 8 is composed of Garden City, Stewart Manor, Garden City South, Franklin Square, a small portion of Elmont, parts of West Hempstead, and Carle Place. This district unites both the Garden City School District and the Franklin Square School District, and combines communities that already have shared public services, including mutual-aid fire services, and extensive intermunicipal cooperation. The communities in proposed District 8 are a noted community of interest that share the same train line and previously united as a single front to advocate for their shared interests in redevelopment during the third track expansion of the Long Island Railroad. The small area of Elmont, parts of West Hempstead, and Carle Place were added to this district from the last proposal for population purposes.

District 9. Proposed District 9 comprises the villages of Bellerose, Floral Park, New Hyde Park, Mineola and East Williston and includes the hamlets of Bellerose Terrace, parts of North New Hyde Park, Garden City Park, and Roslyn Heights. These are areas with strong histories of intermunicipal cooperation and shared public-services arrangements, such

as for mutual-aid fire services. These communities also share school districts. The district includes a commercial corridor along Jericho Turnpike. Proposed District 9 also shares common interests related to the railroad and Metropolitan Transportation Authority, with these communities and many of their schools located right along the tracks. Further, communities along this main line have developed transit-oriented shopping and housing through leveraging state funds to introduce parking garages, lots, and business improvement districts. This iteration of proposed District 9 saw minor adjustments for population purposes, including adding Roslyn Heights and East Williston.

*District 10.* Proposed District 10 centers on the Great Neck Peninsula communities including the villages of Kings Point, Great Neck, Saddle Rock, Kensington, Thomaston, Great Neck Estates, Great Neck Plaza, Russell Gardens, Plandome Manor, Plandome, Plandome Heights, Munsey Park, North Hills, Lake Success, Roslyn Estates, includes the hamlets of Manhasset, Manhasset Hills, and three census districts in North New Hyde Park, largely reflecting the core of the district from the prior enacted map. This district unites communities of interest, including keeping together various synagogues that serve these communities. This proposed district incorporates the Great Neck public school system, as well as keeping together interrelated public services, such as Great Neck Alert and Vigilant Fire Companies, and the Manhasset and Lakeville fire districts. Many of these communities also share transportation infrastructure, as all use the Great Neck train station as a main artery into New York City. Lastly, this district unites the Great Neck, Cutter Mill, Middle Neck, and Northern Boulevard Corridors for business and economic development. The only change in District 10 from the Original Proposed Map was the additional of three census districts in North New Hyde Park, all added for population purposes.

*District 11.* Proposed District 11 includes Sands Point, Port Washington, Manorhaven, Flower Hill, Roslyn, Roslyn Harbor, Glenwood Landing, Sea Cliff, and the City of Glen Cove, once again incorporating large elements of this district under the prior enacted map. This district includes the Coalition to Preserve Hempstead Harbor, established in 1986, which joins together parts of North Hempstead and the City of Glen Cove and routinely deal with issues involving environmental preservation and downtown revitalization. The Port Washington train station services many of these communities, which combine for a hugely popular area for park and ride. This district also unites the Glen Cove area communities together, and those related communities routinely deal with the same transportation and economic development issues. Furthermore, these areas historically deal with shared emergency-services agreements.

*District 12.* Proposed District 12 is a compact district including some portions of Seaford, Bellmore, Wantagh, North Wantagh, portions of North Bellmore, and portions of Merrick and North Merrick. These communities share recreational programs and sports leagues, and the southern portion of the district shares public spaces like Cedar Creek Park. This district is uniformly served by the Babylon train line, as many residents use that train for commuting. The southern portion of the district dealt with the impacts of Hurricane Sandy and so it maintains a need for coordinated emergency services. These areas already coordinate certain public services, like mutual-aid fire services. Additionally, these communities share economic corridors that include Merrick Road, Sunrise Highway, and Jerusalem Avenue. From the Original Proposed Map, proposed District 12 shed some portions of Seaford to proposed District 19, and then added some portions of North Merrick for population purposes, to accommodate other, specifically requested changes.



District 13. Proposed District 13 comprises East Meadow, Salisbury, and parts of Levittown. This compact district combines a number of communities that share a fire protection district, as well as keeping the East Meadow school district and other community school districts in this area largely intact. Moreover, this entire district shares some public and general services, including the nearby Nassau University Medical Center, public parks, and the economic corridor of Hempstead Turnpike.

District 14. Proposed District 14 includes East Rockaway, Lynbrook, North Lynbrook, Malverne, Lakeview, West Hempstead, portions of Valley Stream, portions of North Valley Stream, and portions of Oceanside. This district unites similar incorporated villages that are strong religious communities, including the synagogues and churches that serve their residents. Proposed District 14 unites Malverne and Lakeview, which share a school district. And the Lakeview Fire District also services portions of West Hempstead. This district also shares several train stations along the West Hempstead line of the Long Island Railroad that serve these communities for commuting to and from the city and the Lakeview Long Island Railroad station on the West Hempstead line is in West Hempstead. The areas of the Village of Hempstead that were previously in this district were removed into proposed District 1 to accommodate public and Legislator testimony requesting the reduction of splits of the Village of Hempstead. As a result of that specific change, the Proposed Revised Map needed to add portions of Valley Stream, North Valley Stream, and Oceanside to this district to make up the population loss.

District 15. Proposed District 15 contains the southern part of Levittown, Plainedge, South Farmingdale, the incorporated village of Farmingdale, a small portion of Bethpage, portions of North Massapequa, and portions of North Wantagh. This district encompasses entire school district areas for consistent and singular representation. Moreover, proposed District 15 covers the Hempstead Turnpike corridor, which is a major economic development hub, keeping together both sides of the turnpike with shared bus services. As compared to the Original Proposed Map, this proposed district shed Old Bethpage to proposed District 16, to accommodate the compelling community-of-interest testimony of Legislator Drucker and members of the public explaining that Plainview and Old Bethpage were a deep-seated community of interest together. To recoup the population that was lost in that move, the Proposed Revised Map added areas in North Massapequa and North Wantagh.

District 16. Proposed District 16 comprises Plainview, Woodbury, Syosset, Muttontown, Brookville, Old Westbury, and Old Bethpage. In the western portion, this district retains together various villages and synagogues that serve these related communities. Syosset, Plainview, and Woodbury are a noted community of interest supported by a consistent commuter train line, so they maintain similar interests related to that joint enterprise. Syosset and Woodbury share a school district, community parks, and commercial interests, with their extensive commercial relationship embodied in a single Chamber of Commerce covering both areas. In addition, Syosset Fire Department operates in Muttontown and Woodbury, so these communities are also linked by shared public services. This proposed district added Old Bethpage consistent with the previously discussed Legislator and public testimony uniting Old Bethpage with Plainview as a community of interest. To equalize the population of the district given that addition, proposed District 16 shed Roslyn Heights and East Williston to proposed District 9.

*District 17.* Proposed District 17 includes Hicksville, the majority of Bethpage, and portions of Jericho. This district unites the entire Hicksville School District in one County Legislature district and combines a robust commercial district. Proposed District 17 also unites an emerging South Asian business and cultural community together, one served by a South Asian Chamber of Commerce that routinely organizes events with the general Chamber of Commerce, and which regularly organizes community and cultural events for residents. Relatedly, this proposed district also unites a robust arts community, incorporating together numerous music schools and other arts-related organizations. Additionally, the communities of Hicksville and Bethpage share environmental concerns relating to the Grumman Superfund site and associated groundwater contamination.

*District 18.* Proposed District 18 comprises the communities of Bayville, Lattingtown, Locust Valley, Mill Neck, Matinecock, Oyster Bay, East Norwich, Oyster Bay Cove, Laurel Hollow, Cove Neck, Centre Island, Upper Brookville, Old Brookville, Glen Head, Greenvale, East Hills, Roslyn Heights, Albertson, Williston Park, Herricks, Searingtown, and parts of Glenwood Landing. Multiple communities in this district are incorporated villages, and are connected by common school districts, sharing similar issues and concerns related to water, sewage, flooding, and more. Many communities in this proposed district share the same rail line while lacking public bus transportation. The communities in this district have extensive arrangements for shared fire services and other public services.

*District 19.* Proposed District 19 contains the communities of Massapequa, East Massapequa, Massapequa Park, most of North Massapequa, and a small portion of Seaford. This is a cohesive district, similar to that in the prior enacted map. The communities in this district are united by a single school district serving the entire County Legislature district, as well as common civic groups and related and cooperative chambers of commerce. Moreover, these communities were all gravely affected by Hurricane Sandy, and so they also share a common interest in emergency preparedness and evacuation services in case of any future emergency. The very small portion of Seaford was added to this district from the Original Proposed Map, only for population-equality purposes.