



# Memorandum

**TO:** CITY COUNCIL

**FROM:** Mayor Sam Liccardo

**SUBJECT:** REDISTRICTING  
COMMISSION

**DATE:** October 9, 2020

**APPROVED:**

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## RECOMMENDATIONS

1. Accept the City Clerk's recommendations; and
2. Adopt the reforms recommended by California Common Cause to maximize the diversity, openness and effectiveness of San José's Redistricting Commission process as detailed below.

## BACKGROUND

San José can do more to ensure its redistricting commission is independent, fair, diverse, transparent, and filled with qualified commissioners. California Common Cause has both studied and advocated for best practices in redistricting across the state, and I propose that we adopt their recommendations for San José, including a ban on *ex parte* communications by commission members.

### Recommendations for the Application Process:

1. **Hold an open application process:** Let all San José residents apply to serve on the commission. Construct an open and public process that makes applicants' applications – their resumes and answers to short essay questions – known to the public. Create a website where members of the public can submit public comment on applications. Require councilmembers to appoint someone from the pool of people who apply from their district.
  - CA Common Cause can provide useful examples of applications from other city and county redistricting commissions and consult on designing the application process.
2. **Eliminate conflicts of interest:** Prohibit the appointment of an elected official's family members, employees, current or past campaign staffers, or current or past campaign

consultants; current and past candidates and officeholders; registered city lobbyists; and major campaign donors (e.g. \$500+).

- CA Common Cause can provide disqualifying conflict of interest criteria from other redistricting commissions. Disqualifying conflict of interest criteria of this kind are used by the state commission and commissions in many cities and counties, including Menlo Park, Oakland, Los Angeles County, and San Diego County.
3. **Ensure diversity on the commission:** Require elected officials to make their appointments "provisional" and public for a two-week period, so the City Clerk or City Attorney can provide an evaluation of whether the proposed appointees as a whole would compose a commission that is in fact racially/ethnically representative of the City. Require that the final appointments be made together at a noticed council meeting so that councilmembers can deliberate and make adjustments as needed to ensure diversity.
  4. **Enable public input on commissioner selections before they are final:** Permit the public to comment on the proposed commissioners during this provisional period.

Recommendations for the Commission, Post-Selection:

5. **Ban closed-door, backroom communications:** Increase independence and public trust by prohibiting commissioners from having *ex parte* communications on redistricting. Such bans have been adopted by the state commission and by several large cities in California, such as Long Beach and Sacramento. Adopt the provisions for California's Citizens Redistricting Commission in state code section 8253.a3, which states: "Commission members and staff may not communicate with or receive communications about redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, staff, legal counsel and consultants retained by the commission." Require all communication with commissioners concerning redistricting from elected officials to be made orally during public comment at a commission meeting or in written comment submitted to the commission and published online.
6. **Prevent interference with the commission's work:** Permit removal of a commissioner by the appointing elected official for good cause only (e.g. health problems or moving out of San Jose) and with confirmation via a majority vote of the redistricting commission.
7. **Direct city staff to return with options for placing a charter amendment on the 2022 ballot** to create an independent redistricting commission, which would adopt council district boundaries in all future redistricting cycles. Staff should work with California Common Cause to identify best practices recommendations and model charter language from other California cities.

These changes will ensure San José's redistricting process enjoys greater community involvement, more trust from the public and fairer results.