

N.Y. House Districts Illegally Favor Democrats, Appeals Court Rules

A divided five-judge panel found that Democrats engaged in gerrymandering in creating new district maps. The case is expected to head to New York's highest court.

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Democrats were counting on the newly drawn district maps to help them retain control of the House. Credit... Janice Chung for The New York Times



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A New York appeals court ruled on Thursday that new congressional districts drawn by Democrats violated the state's ban on partisan gerrymandering, partially upholding a lower-court ruling that would block the state from using the lines in this year's critical midterm elections.

A divided five-judge panel in Rochester said Democratic legislative leaders had drawn the new House map “to discourage competition and favor Democrats,” knowingly ignoring the will of voters who recently approved a constitutional amendment outlawing the practice.

“We are satisfied that petitioners established beyond a reasonable doubt that the Legislature acted with partisan intent,” a three-judge majority wrote in [its opinion](#). Two judges dissented.

Gov. Kathy Hochul and top legislative leaders are expected to immediately appeal the decision to the state’s highest court, the New York Court of Appeals. The judges there, all of whom were appointed by Democratic governors, have indicated they could render a final verdict as soon as next week.

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The outcome in New York will have significant implications in the broader fight for control of the House of Representatives. National Democratic leaders are counting on the maps their party drew in New York to help offset gains by Republicans.

Without them, Democrats are at risk of emerging from this year’s redistricting cycle having been bested by Republicans for the second consecutive decade. Republican gains were on track to grow further after [Florida lawmakers this week approved a map drawn by Gov. Ron DeSantis](#) that would create four new Republican-friendly seats.

The ruling was the second consecutive setback for New York's Democratic mapmakers, and this time it came in an appellate court that was viewed as generally friendly to the party.

What to Know About Redistricting

- **Redistricting, Explained:** Here are some [answers to your most pressing questions](#) about the process that is reshaping American politics.

- **Killing Competition:** The number of [competitive districts is dropping](#), as both parties use redistricting to draw themselves into safe seats.

“Like other state courts around the country, New York courts aren’t finding the question of whether a map is a partisan gerrymander a particularly hard one to decide,” said Michael Li, senior counsel for the Democracy Program at the Brennan Center for Justice. “It’s very hard to defend a map like New York’s, and ultimately if it quacks like a duck, it probably is a duck.”

Still, Mr. Li added, Thursday’s decision was only the second of three acts in New York’s redistricting legal drama.

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On Thursday, the judges from the Appellate Division of the New York State Supreme Court ordered the Democrat-led Legislature to promptly redraft the map by April 30 or leave the task to a court-appointed neutral expert. The judges were largely silent on another key question at stake: whether some of the primaries scheduled for June should be postponed until August to accommodate new districts.

The congressional lines in question, [adopted by Democratic supermajorities in the Legislature](#) in February, would give Democrats a clear advantage in 22 of the state’s 26 congressional districts by shifting voters favorable to their party into redrawn seats on Long Island and Staten Island and in Central New York, and packing Republicans in a smaller number of districts. Republicans currently hold eight districts on a map that was [drawn by a court-appointed special master in 2012](#).

State leaders did emerge with some good news from the latest ruling. The panel rejected more sweeping parts of [the decision by the lower-court judge](#), Patrick F. McAllister of Steuben County, that held that lawmakers lacked the authority to draw any maps at all after New

York's newly created redistricting commission failed to agree on a plan for the state.

As a result, the appeals court ruling reinstated State Senate and Assembly maps that Justice McAllister had thrown out.

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Mike Murphy, a spokesman for Senate Democrats, said they were "pleased" that the appeals court had validated the Legislature's right to draw the maps this year, and predicted the higher court would reinstate the congressional maps as well.

"We always knew this case would end at the Court of Appeals and look forward to being heard on our appeal to uphold the congressional map as well," he said.

John Faso, a spokesman for the Republican-backed voters challenging the maps, said that they would file their own appeal to try to strike the state legislative maps. But he called Thursday's decision a "great victory."

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The broader legal dispute turns on two interlocking questions: whether the mapmaking process properly adhered to procedures laid out in a 2014 amendment to the State Constitution, and whether the maps themselves violated an accompanying ban on drawing districts for partisan gain.

The procedural changes made in 2014 were designed to remove the line-drawing process from the hands of politicians by creating an outside commission to solicit public input and forge a bipartisan proposal for House, State Senate and Assembly districts. If the commission had reached agreement, the Legislature's role would have been to ratify the maps.

How U.S. Redistricting Works

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What is redistricting? It's the [redrawing of the boundaries](#) of congressional and state legislative districts. It happens every 10 years, after the census, to reflect changes in population.

Why is it important this year? With an extremely slim Democratic margin in the House of Representatives, simply redrawing maps in a few key states [could determine control of Congress in 2022](#).

How does it work? The census dictates [how many seats in Congress each state will get](#). Mapmakers then work to ensure that a state's districts all have roughly the same number of residents, to ensure equal representation in the House.

Who draws the new maps? Each state has [its own process](#). Eleven states leave the mapmaking to an outside panel. But most – 39 states – have state lawmakers draw the new maps for Congress.

If state legislators can draw their own districts, won't they be biased? Yes. Partisan mapmakers often move district lines – subtly or egregiously – to cluster voters in [a way that advances a political goal](#). This is called gerrymandering.

What is gerrymandering? It refers to the [intentional distortion of district maps](#) to give one party an advantage. While all districts must have roughly the same population, mapmakers can make subjective decisions to [create a partisan tilt](#).

Is gerrymandering legal? Yes and no. In 2019, the Supreme Court ruled that the federal courts have [no role to play in blocking partisan gerrymanders](#). However, the court left intact parts of the Voting Rights Act that prohibit racial or ethnic gerrymandering.

Want to know more about redistricting and gerrymandering? Times reporters answer your [most pressing questions here](#).

But the commission was widely viewed as flawed from the start. Democratic and Republican leaders appointed an equal number of members, and when the time came to recommend maps to lawmakers in January, the panel deadlocked on party lines, sending separate proposals to Albany.

After the Legislature rejected both, the commission opted not to exercise its statutory right to take another shot at new maps. At that point, Democrats who control the Senate and Assembly quickly drafted, introduced and passed their own maps.

In oral arguments on Wednesday, a lawyer for the Republican challengers argued that the Legislature did not have the right to proceed until the commission had submitted a second set of maps for consideration, and that the maps they did adopt for Congress and the State Senate were illegally gerrymandered under new constitutional rules.

The language at issue in the State Constitution dictates that districts “shall not be drawn to discourage competition” or for the purpose of favoring or hurting a particular candidate or political party.

“In 2014, the people of New York made clear that they wanted the constant gerrymandering by the Legislature every decade to stop,” said Misha Tseytlin, the Republican lawyer. “Yet in the very first election cycle governed by the 2014 amendment, two of the branches of New York government, the executive branch and the legislative branch, engaged in an egregious, nationally embarrassing gerrymander.”

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Lawyers for Democratic state leaders vehemently rejected the charge, arguing that they were within their rights to draw the maps and did so fairly.

Alice Goldman Reiter, a lawyer for Senate Democrats, took particular issue with Republicans’ computerized simulations that were used to

argue that the maps were aggressively skewed toward Democrats. She said the simulations had failed to account for other constitutional requirements that influenced mapmakers, like the need to preserve communities of interest in diverse enclaves like Brooklyn.

“No court has ever found beyond a reasonable doubt partisan intent based exclusively on computer simulations, and absolutely these simulations should not be the first,” she said.

On Thursday, the majority of judges found the simulations trustworthy. They also cited the partisan mapmaking process — Democratic lawmakers did not consult their Republican counterparts when drawing the congressional lines — and a common-sense reading of the new lines to argue their conclusion.

The order was signed by justices Stephen K. Lindley, a Democratic appointee; and John V. Centra and John M. Curran, both of whom were appointed by Republicans.

Two other judges, both appointed by Democrats, disagreed. In a written dissent, the judges, Gerald J. Whalen and Joanne M. Winslow, said that they found the computer models to be flawed and that the majority was wrong to second-guess the intentions of legislators simply because they undertook a partisan process.

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