

8-21-2023

Is the End Finally Near for New York's Congressional Redistricting?

Jeffrey M. Wice

Piper Benedict

Opinion: Is the end finally near for New York’s congressional redistricting?

The 2014 state constitutional amendment that created this poorly developed process and its incomplete language should compel legislators and the public to look for a better method after 2030.



Voting booths at P.S. 10 in Park Slope during the August 23, 2022 primary election. MICHAEL M. SANTIAGO/GETTY IMAGES

By **JEFFREY WICE AND PIPER BENEDICT**

AUGUST 21, 2023

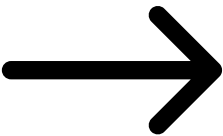
The [recent decision](#) by New York’s Appellate Division in the congressional redistricting case has thrown more balls into play over district maps than most people can track. The future control of the U.S. House of Representatives may depend on what happens in New York.

Following a New York constitutional redistricting process adopted in 2014, a newly created Independent

firstread

The must-read daily newsletter for NY’s political community. Get it in your inbox.

Enter your email



OPINION
CAMPAIGNS
&
ELECTIONS

NEW YORK
STATE

Redistricting Commission and the state legislature each have roles in redistricting in New York State. In 2022, the state Legislature rejected the congressional district map the IRC submitted after the 2020 Census and instead enacted its own congressional district map. A group of Republican voters challenged those lines in the Harkenrider v. Hochul case in Steuben County, where they alleged that the congressional map was improperly enacted and that it was a partisan gerrymander. The court ruled that the Legislature did not have the authority to enact the map and that the map was too partisan.

Although New York state’s constitutional provisions provide the opportunity for the IRC to submit a second map to the legislature, it failed to do so last year. The court ruled that the legislature could not act on its own without the second IRC map submission’s rejection. That ruling did not accommodate another round of line drawing by the Legislature. The state court’s special master, Jonathan Cervas, a distinguished redistricting expert from Carnegie Mellon University, drew the new map that was to shrink the number of congressional districts from 27 to 26 while complying with applicable constitutional and statutory requirements. Working on a tight time frame due to the election calendar, Cervas crafted a new map that the

First, the losing parties in Hoffmann (who include Republican IRC appointees and the original Republican plaintiffs who brought the Harkenrider case that led to the special master's

the congressional case, *Hoffmann v. Independent Redistricting Commission* ruling. The New York Court of Appeals – the state’s highest court – is likely to hear the appeal in November.

Second, given the latest court decision in *Hoffmann*, the IRC’s work can begin on developing the new lines for the rest of the decade as soon as the Court of Appeals clarifies whether or not a “stay” prevents action before the appeal is heard. That work could include conducting

a round of 12 public hearings across the state to update input since the last round of IRC congressional hearings ended in December 2021. Such hearings would help add to transparency and public confidence.

In light of the Appellate Division ruling in *Hoffmann*, the IRC is to submit one or more maps to the Legislature. The IRC members included eight individuals appointed by the state’s legislative leaders and two others chosen by those eight appointees. Given the partisan composition of the IRC it is unclear how smooth or successful this new round of line drawing will be.

Third, if the Commission sends at least one new map to the Legislature, and it’s approved, the governor’s signature should end the redistricting process. If the IRC fails to agree on one map, then

the commission must send the map (or maps) with the most votes to the Legislature for consideration. The undertaking also could conclude even if the Legislature rejects the new map, so long as the legislature then passes a viable map of its own that the Governor signs.

In the meantime, while the Commission and legislature deliberate, an appeal in Hoffmann is underway at the Court of Appeals with a decision expected later this year. If the Court of Appeals affirms the Appellate Court decision, the IRC and legislature can proceed with new mapping. If the Court reverses the Appellate Court, the mapping process ends, keeping the 2022 congressional lines in place. At this time, the IRC may even complete most of its work before the Court of Appeals decides.

Does that exhaust the range of possibilities to get to a conclusion? Not necessarily.

Even if the Court of Appeals allows the redistricting process to move forward, that would not foreclose a challenge to a new map on grounds that the lines violate relevant legal criteria, including factors delineated in the state constitution – e.g., population equality, ban on partisan gerrymandering, and respecting minority voting rights, among others.

The redistricting process created by the 2014 state constitutional amendment brought us to today’s situation. The amendment’s poorly developed and incomplete language should compel legislators and the public to look for a better method after 2030. There is still time

to amend the constitution again, hopefully with a more workable and independent process that can be the model of reform that the 2014 amendment failed to accomplish.



Jeffrey Wice is an Adjunct Professor and Senior Fellow at New York Law School where he directs the N.Y. Census & Redistricting Institute. Piper Benedict is a third year law student at New York Law School where she is a Student Fellow at the N.Y. Census & Redistricting Institute.