

Population Deviations in Redistricting

What is deviation?

The percentage by which a district's population can vary from perfect parity where all districts have the exact same population. It can be calculated two ways:

- A plus or minus figure from the ideal population size for each district (i.e., +/- 5%); or
- The variance in population size between the largest and smallest districts in a state.

These two approaches seem like different math, but (according to sources at NCSL) they work out to be about the same.

What is ideal size?

It is a raw calculation, total population divided by the number of districts.

Federal standards:

Congress: Federal law requires the population to be equal, and there is no minimum level of population deviation that's been accepted by the U.S. Supreme. The Court has interpreted the Constitution as requiring that congressional districts have a deviation of no more than *one or two persons* from population parity. So, the allowable deviation for the Congressional Seats is essentially 0%.

Legislatures: The Court has given states more flexibility when drawing legislative boundaries, in general permitting districts up to 10% deviation (or, stated another way, +/- 5%) between the largest and smallest districts. Deviations larger than 10% total are seen as potentially undermining the fundamental principal of one-person, one-vote, and are more likely to face court challenges. Even some deviations under 10% may face challenges, depending on the circumstances. The case *Evenwell v. Abbott*, argued in 2016, offers further detail.

NM's Approach to Population Deviation:

New Mexico's redistricting rules in 2011 (and again in 2021, if current language in SB15 or HB211 is adopted):

- 1) Congressional districts shall be as equal in population as practicable.
- 2) State districts shall be substantially equal in population; no plans for state office will be considered that include any district with a total population that deviates more than plus or minus 5% from the ideal.

NM 2011 District Sizes

Ideal Population Size for NM House Districts	Percent Overall Deviation Range*	Ideal Population Size for NM Senate Districts	Percent Overall Deviation Range*
29,417	6.68%	49,028	8.7%

* Calculated as the difference between largest and smallest districts (in population).

What if NM's Law Allowed a Higher Deviation?

Some people have floated ideas of allowing a higher deviation in legislation, even as great as plus or minus 10% (thus a 20% deviation). Such an approach would go far beyond standard norms. According to the 2020 NCSL "Red Book," plans with overall deviations in excess of 10% (i.e., +/- 5%) may find themselves in potential violation of the Equal Population requirement and at greater risk of court challenges. Deviations higher than +/- 5% do occur in rare circumstances, but the state bears the burden of proving that there was rational justification.

Additional information available at www.RedistrictNM.org

Sources: National Conference for State Legislatures, [2020 Redistricting Law](#) (Red Book), and [online state comparison](#); Brennan Center for Justice, [Redistricting Landscape](#), 2021; New Mexico First, [Redistricting Background Report](#), 2020; New York Law School, [RedistrictingOnline.org](#).