

June 8, 2009

Elaine M. Howle, California State Auditor
c/o Sharon Reilly, Chief Counsel to the State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

RE: Citizens Redistricting Commission Application and Screening Process

Dear Ms. Howle:

As a result of recent discussions with Michael Salerno, we submit for your consideration a proposed application form for the Citizens Redistricting Commission (attached).

We feel strongly that a multiple-choice knowledge-based test is not the best way to evaluate qualifications of potential Commission candidates. However, we understand that there may be a need for an application instrument that allows the Applicant Review Panel to quantify responses, particularly in the event that there is a large pool of applicants. Any such evaluation must be based on applicants' education and experience – and not predicated on a test that measures the ability to memorize facts and take tests. We believe that an experience-based questionnaire is a more effective tool for determining appropriate skills and aptitude, the “ability to be impartial,” and “appreciation for California’s diverse demographics and geography.”

The attached application embodies many of the principles we advocated for in an earlier letter dated May 12, 2009. These principles are listed below:

1. **Let applicants know at the very beginning that certain portions of the application and the selection process will be public.** The proposed application form clearly indicates which items on the application will be made available to the public and which will not.
2. **Allow applicants to provide their race or ethnicity on the application form.** We have suggested categories from the federal voter registration form to facilitate processing by the Applicant Review Panel. We have also included an “Other” category for applicants to check, in case the listed categories don’t apply.
3. **Provide a simple checklist of “yes/no” questions to establish applicant eligibility.** As you can see, Part 2 of the draft application is a series of questions that give the potential applicant a chance to determine his/her eligibility. If, after answering the questions, the applicant determines himself/herself ineligible, he/she can opt out of completing the rest of the application. This format essentially serves as a two-step application process, but allows the applicant to move directly from step one to step two if desired, which may speed up the application process for some.

4. **The application itself should have a check box where the applicant agrees to a statement such as “I attest that this is true to the best of my knowledge.”** As you can see, we have included suggested language at the end of the application.
5. **Applicants should be advised that their job is not to represent their political parties.** The May 12 letter suggests that even though applicants will be asked to provide their party affiliation, it is advisable that a message is included in the instructions or on the application stating that the purpose of doing so is to achieve political diversity, and that, if selected, applicants are not expected to serve on the commission as representatives of their parties.
6. **We recommend that BSA staff double-check the accuracy of applicants’ responses in the final rounds of the selection process, particularly applicants’ family connections.** Although we have suggested a question (#6) in Part 2 that asks the potential applicant to provide information about his/her immediate family, as suggested in the May 12 letter, we recommend that BSA staff double-check the accuracy of applicants’ responses for those who make it into the final pool of 60.

In addition, we make the following suggestions:

1. **Include instructional and resource materials with the application form.** Certain elements of the application will undoubtedly require additional explanation and examples that may not be immediately apparent on their face, such as definitions of “immediate family,” “bona fide relationship” and “contract work.” Providing resources will help potential applicants determine their eligibility (e.g., links to and instructions for navigating the Cal-Access and/or Federal Election Commission’s campaign finance websites) as well as a description of the appeals process should an applicant find later he/she is determined to not meet the eligibility requirements.
2. **In the instructions, clarify the definition of “federal or state office” mentioned in Part 2, 5(a) and 7(a) of the proposed application.** It should be made clear to potential applicants that that definition does not exclude state employees in general – that is, for example, a Cal State professor or a nurse in a state hospital would not be disqualified based on that definition. Also, our research shows that a state commission that is **advisory only** (such as the XYZ Commission) would not be included in the definition of “federal or state office” – it might also be useful if the instructions provided a few examples of such commissions and access to a comprehensive list of those advisory-only state commissions.
3. **Promulgate a regulation that limits conflict of interest to California.** The conflict-of-interest language in the Voters FIRST Act under 8252.(A)(i)-(vi) is currently unclear as to whether the conflict-of-interest provisions apply only in California or nationally. We have attempted to clarify that language in the application – we suggest that the BSA may want to promulgate a regulation that addresses that as well.

We thank you for the opportunity to provide input as you and your staff think through this stage of the Commission selection process. We are happy to answer any questions you may have about our comments and concerns.

Sincerely,

Janis R. Hirohama
President
League of Women Voters of California

Jeannine English
President
AARP

Arturo Vargas
Executive Director
National Association of Latino Elected and
Appointed Officials (NALEO) Educational Fund

James P. Mayer
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Douglas Johnson
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Kathay Feng
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Alice A. Huffman
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California Voter Foundation

Eugene Lee
Voting Rights Project Director
Asian Pacific American Legal Center

Steven J. Reyes
Kaufman Legal Group
Former Voting Rights Attorney
MALDEF
(for identification purposes only)

cc: Michael B. Salerno