



July 14, 2010

Ms. Mary Camacho
Mr. Nasir Ahmadi
Ms. Kerri Spano
Applicant Review Panel
c/o Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

RE: Concerns About Diversity in Applicant Pool for Citizens Redistricting Commission

Dear Ms. Camacho, Mr. Ahmadi and Ms. Spano:

On behalf of the Asian Pacific American Legal Center (APALC), the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, the Mexican American Legal Defense and Educational Fund (MALDEF), and the Greenlining Institute, we write to you regarding the next steps you are planning for reducing the Citizens Redistricting Commission applicant pool to 120.

We understand that on June 11, 2010, the Applicant Review Panel (ARP) reduced the pool of applicants from 4,547 to 623, and that on June 30, 2010, the ARP further reduced the pool of applicants to 314. We also understand that the ARP will soon reduce the pool of applicants to 120.

The Voters First Act is explicit in calling for a Citizens Redistricting Commission that is “reasonably representative of this State’s diversity.” (Cal. Const., art. XXI, § 2(c)(1).) We understand that in its meetings the ARP has recognized the Act’s important goal of diversity. However, unless the ARP is extremely vigilant and conscientious in the next round of reducing the pool of applicants, the Act’s goal of diversity will be irreparably compromised. Failure to reach meaningful diversity at this stage will virtually ensure that no matter what actions are taken in later stages of the selection process, Article XXI, § 2 will be abrogated.

In the discussion that follows, we detail the problem and identify the areas that need particular attention. The statistics we provide are not intended to be used as formulas or specific ratios for representation. Rather, they are offered to show the severity of the problem and the urgent need for the ARP to address it in the next round, as you reduce the applicant pool to 120 and the three subpools to 40 each.

I. The Problem

The current applicant pool of 314, and particularly the subpools for Republican applicants and applicants registered with neither major party (Other Party applicants), fail to reflect the diversity of California’s population. The lack of diversity occurs in a number of different dimensions: race/ethnicity, gender, economic, and geography – the aspects of diversity spelled out in the Act’s implementing regulations.¹

While we realize that statistically the original tens of thousands of applicants were not reflective of the State’s diversity in these dimensions, the Constitution does not accept that factor as an excuse. Significantly, careful attention to diversity in the next stage of selection can serve to increase diversity and alleviate the problem.

The following table indicates the dimensions of the problem as to gender diversity and California’s Latino, Asian American and Pacific Islander (AAPI), and African American populations:

	Percent of Population ²	Percent of Pool of 314	Percent of Democratic Pool	Percent of Republican Pool	Percent of Other Party Pool
Male	50.0%	61.5%	53.0%	70.8%	60.5%
Female	50.0%	38.5%	47.0%	29.2%	39.5%
Latino	36.1%	14.3%	22.6%	7.1%	12.8%
AAPI	12.7%	8.9%	12.2%	8.0%	4.7%
African American	6.2%	8.6%	16.5%	2.7%	5.8%

The skewed character of the current pool of 314, unless moderated in the next stage, will have several severe negative consequences:

A. If the disparities are not addressed at this next stage in the selection process, the diversity of the ultimate Citizens Redistricting Commission will be fatally undermined. For example, the representation of Latinos in the pool of 314 does not come close to their representation among California’s registered voters, let alone the general population, which is the appropriate measure. (See Section 60815 of the Voters First Act’s implementing regulations, which defines diversity by reference to “the population of California.”) Latinos represent 36.6% of the population and 20.3% of registered voters, but only 14.3% of the current pool.

¹ Under the Voters First Act, diversity means “the variety in the racial, ethnic, geographic, economic, and gender characteristics of the population of California.” (Cal. Code Regs., tit. 2, § 60815.)

² Figures taken from U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates.

If in the next reduction of the remaining 314 applicants to 120, applicants are struck proportionately across all racial/ethnic groups, only 17 of the final 120 applicants will be Latino.³ In this case, the only way for the representation of Latinos among the final 60 applicants to reasonably approach the representation of Latinos in the general population would be to advance all 17 past the interview process (in which case Latinos would still make up only 28% of the final pool (17 of 60)).

To put it another way, if the racial/ethnic diversity of the pool is not addressed as the applicant pool is reduced to 120, then race/ethnicity will have to be treated as the **primary** factor in later stages to avoid violating Article XXI, § 2(c)(1) of the Constitution.

B. If the ARP is not careful, the pools of registered Republicans and those not registered with either major party will be bereft of diversity. Among the 314 currently remaining applicants, the Republican and Other Party pools have much lower numbers for racial/ethnic and gender diversity than the Democratic pool:

- The Democratic pool is 54.8% non-White, while the Other Party pool is 34.9% and the Republican pool is only 22.1% non-White.
- The Democratic pool is 47.0% female, while the Other Party pool is 39.5% and the Republican pool a troubling 29.2%.

We understand that in its public meetings ARP has articulated the need to consider the diversity of the applicant pool. However, while the ARP's consideration of diversity as it reduced the pool of applicants from 623 to 314 is clearly reflected in the Democratic pool, it is only minimally reflected in the Republican and Other Party subpools. In comparing racial/ethnic diversity among the pool of 623 applicants and the current pool of 314 applicants, the percentage of non-White Democratic applicants increased almost 15 percentage points from 40.2% to 54.8%. In contrast, the percentage of non-White Republican applicants increased from 19.4% to only 22.1%, and the percentage of non-White Other Party applicants increased from 30.4% to only 34.9%.

II. Solutions

While we recognize the challenges presented by the selection process and greatly appreciate your efforts thus far, we encourage the ARP in reducing the pool from 314 to 120 to pay particular attention to the Constitution's requirement that the process be designed to produce a Citizens Redistricting Commission that is reasonably representative of the state's diversity.

³ Of the remaining applicants, 34.8% of the 115 Democrats will make it to the interview stage (40 divided by 115), 35.4% of the 113 Republicans will make it to the interview stage (40 divided by 113), and 44.9% of the 89 Other Party applicants will make it to the interview stage (40 divided by 89). If the same percentages of Latino applicants in these respective subpools make it to the interview stage, then there will be 17 total Latino applicants remaining (34.8% of 26 Latino Democratic applicants plus 35.4% of 8 Latino Republican applicants plus 44.9% of 11 Latino Other Party applicants).

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We have two recommendations for the ARP as you move forward in the selection process:

(1) We encourage the ARP to be aware of and attend to the diversity issues during each succeeding step in the selection process. Specifically, the list of 120 applicants to be interviewed should not be finalized until the ARP has analyzed the degree to which the list reflects the diversity of the State, as required by section 60848(f) of the Voters First Act's implementing regulations, which provides that the ARP "shall also consider whether the composition of the pool of applicants to participate in Phase III of the application process is reflective of the State's diversity."

(2) Furthermore, we encourage the ARP to pay attention to the diversity of each subpool, and not just the overall diversity of the remaining 120 applicants. This is particularly true for the Republican and Other Party subpools; at the same time, we caution that the ARP must continue to pay attention to diversity in the Democratic subpool.

Thank you for the opportunity to share our comments.

Stewart Kwoh
President and Executive Director
Asian Pacific American Legal Center

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

Nancy Ramirez
Western Regional Counsel
Mexican American Legal Defense and Educational Fund

Orson Aguilar
Executive Director
The Greenlining Institute