

**RESPONSE TO DRAFT STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES**

Elections Code Sections 2151 and 13102(b)
Statutes 2000, Chapter 898 (SB 28)

Modified Primary Election
(01-TC-13)

County of Orange, Claimant

Test Claimant County of Orange presents the following in response to Commission's Draft Staff Analysis on Proposed Parameters and Guidelines (Ps & Gs) as issued on September 7, 2011. Test Claimant generally concurs with Staff but wishes to reassert its request that redesigning and republishing the sample ballot be included as a reimbursable activity.

When this Commission found the Modified Primary program to be a reimbursable state mandate, it found two reimbursable activities: adding information to the voter registration card and allowing voters who declined to state a party affiliation to vote a party ballot. These are part and parcel of the basic functions of any Registrar of Voters: the provision of information and materials to voters. The Modified Primary program is a perfect example of this function. To that end, the activities delineated in the Ps & Gs should reflect the effort required to educate the public about their voting rights and to assist the public with exercising those rights under the program.

Test Claimant believes that the following activity should be included in the Ps & Gs:

- Redesign and republish the sample ballot. (one-time)

This item was deleted from the final proposed Ps & Gs as Commission staff agreed with the Finance's recommendation to deny this request as there is no requirement in law for this activity. At the Ps & Gs stage, however, the Commission may now consider matters that are "the most reasonable methods of complying with the mandate" which "are those methods not specified in statute or executive order that are necessary to carry out the mandated program."¹

The mandated program requires allowing the decline-to-state voter to vote a party ballot. Adding information to the sample ballot is a reasonable method of providing information

¹ CCR, title 2, section 1183.1(a)(4).

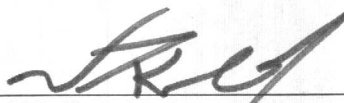
to the voters and allowing decline-to-state voters the opportunity to vote. As explained in Neal Kelley's declaration in support of this response, voters do not retain copies of their registration cards. So, information included on them is not as available to voters at the polls as information included in their sample ballots. Moreover, the determination by the parties of who can vote can change from year to year.

Allowing decline-to-state voters to vote a party ballot is more than just providing a ballot. It is keeping the voters up-to-date on their voting rights and ability to cast ballots. Voters rely on sample ballots for this information. So including specific information for decline-to-state voters in the sample ballots is a reasonable, necessary and effective method of complying with the mandate.

CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and correct, except as to those matters stated upon information and belief and as to those matters, I believe them to be true.

Executed this 20th day of October, 2011, at Santa Ana, California, by:



Neal Kelley
Registrar of Voters
County of Orange

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Declaration In Support of

**RESPONSE TO DRAFT STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES**

Elections Code Sections 2151 and 13102(b)
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Modified Primary Election
(01-TC-13)

County of Orange, Claimant

Declaration of Neal Kelley

I, Neal Kelley, state as follows:

1. I am the Registrar of Voters for the County of Orange and have held this position for almost six years. I have personal knowledge of the facts stated herein, and if called upon to testify, I could do so competently.

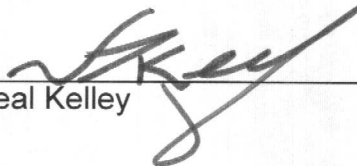
2. I reviewed the Draft Staff Analysis for the Modified Primary program and noted that one activity we had originally requested be included in the Ps & Gs as reimbursable was deleted: redesign and republish the sample ballots.

3. Our original request for reimbursement included this activity because including information in the sample ballots was reasonable way to provide information to voters. Our goal is to ensure voters are educated. By providing this information in the sample ballot, it ensures that every voter has this information available when voting.

4. When registering to vote as a decline to state party, the registration card states that they are entitled to vote a party ballot if the political party allows it. However, voters do not keep a copy of their registration form. It is our responsibility to inform all voters of their options to vote so they are better prepared come Election Day. Specifically when parties make a determination of who can vote each election and this can change every election. By placing this information in the sample ballot we are ensuring that all decline to state voters receive this valuable information before going to

1 the polls to vote.

2 I declare under penalty of perjury that the foregoing is true and correct as based
3 upon my personal knowledge, information or belief, and that this declaration is executed
4 this 20 th day of October, 2011, at Santa Ana, California.

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7 _____
8 Neal Kelley
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