

# County of Santa Clara

## Registrar of Voters

1555 Berger Drive, Bldg. 2  
San Jose, CA 95112  
Mailing Address: P.O. Box 611360, San Jose, CA 95161-1360  
(408) 299-VOTE (8683) (866) 430-VOTE (8683) FAX: (408) 998-7314  
www.sccvote.org



DATE: March 9, 2020

TO: Honorable Members of the Board of Supervisors  
Jeffrey V. Smith, County Executive

FROM: Shannon Bushey, Registrar of Voters

SUBJECT: Under advisement from January 14, 2020 (Agenda Item No. 24): Off-Agenda Report Regarding Nominations Filing Period and Legal Support

At the January 14, 2020 meeting of the Board of Supervisors, the Board requested that Administration prepare an off-agenda report within 45 days regarding the nominations period for the March 3, 2020 Presidential Primary Election.

Supervisor Cortese requested that Administration provide written responses to candidates who had delivered correspondence raising concerns regarding the 2020 election process, including those concerns raised by candidates Evan Low, Carmen Montano, John Laird, and Magdalena Carrasco, and file copies of those responses with the Clerk of the Board. Responsive letters have been issued to each of the named candidates and copies of those letters are attached hereto so that the Clerk of the Board's office may attach them to the appropriate agenda item.

Supervisor Simitian separately requested that County Counsel and the Registrar of Voters (ROV) report to the Board on a date uncertain relating to the need to provide supplemental legal support during the election filing period.<sup>1</sup>

In addition to regular check-ins with the ROV staff, County Counsel attorneys make themselves available to all ROV staff on an as-needed basis, both in office and by telephone. ROV has found that support timely and responsive. The two departments have agreed to increase the in-person office time of County Counsel attorneys at the ROV headquarters to meet with staff during the nomination period to address the various types of questions that are posed to staff by candidates and campaigns.

Regarding staffing, County Counsel has submitted a budget request to the Office of Budget and Analysis for an additional 1.0 FTE attorney position to support legal issues related to ROV. In addition to general advice needs, one trend in recent years is an increasing number of lawsuits challenging election results or processes filed during and following each election. Currently, County Counsel's staffing allows the Office to dedicate just a portion of one attorney to the ROV. However, the annual number of hours the ROV has used in recent years spiked to as much as 2,649 hours in Fiscal Year 2018, reflecting 1.5 FTE in billable attorney time. Because

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<sup>1</sup> The County Counsel has reviewed and signed off on this portion of the response.

of the specialized nature of the Elections Code, pulling in additional attorneys from other projects at peak times is also not the most effective way to ensure appropriate legal service delivery.

Please note, many questions from members of the public may be construed as requesting legal advice from ROV staff. The ROV is not permitted to give legal advice and has posted a sign on its counter to that effect. The two departments will also review, and revise if needed, the nominations filing training provided to the ROV staff and the candidate and campaign filing information provided to the public.

Attachments: Letter to John Laird  
Letter to Patrick Ahrens  
Letter to Magdalena Carrasco  
Letter to Carmen Montano

cc: Chief Board Aides  
Miguel Marquez, Chief Operating Officer  
James R. Williams, County Counsel  
Megan Doyle, Clerk of the Board of Supervisors  
John P. Mills, Director, Employee Services Agency

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February 18, 2019

Patrick Ahrens

Dear Mr. Ahrens,

RE: Merge Field Error on Nomination Documents, 29<sup>th</sup> Assembly District

Thank you for letting me know of your concerns regarding the clerical error on a merge field on Assemblymember Low's Declaration of Candidacy nomination document. A merge field error on the nomination document caused the population of Assemblymember Low's candidate name in an area where the contest name should have populated rather than a signature line that you stated in your email response to Donald Rocha and Tara Sreekrishnan on December 9, 2019. Once the office was made aware of the error, the merge field was updated in the document to avoid subsequent errors. The department assessed the number of candidates that were affected and those candidates were immediately notified and informed of the issue. I do apologize for the additional visit that Assemblymember Low and you had to make to our office to correct the wording.

If you have any questions, please call Bren Lehr, Candidate Services Manager, at (408) 282-3041.

Sincerely,

Shannon Bushey  
Registrar of Voters

CRL/crl

cc: Assemblymember Evan Low  
Virginia Bloom, Assistant Registrar of Voters  
Bren Lehr, Election Division Coordinator



## Bloom, Virginia

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**From:** Lehr, Bren  
**Sent:** Tuesday, February 18, 2020 3:33 PM  
**To:**  
**Cc:** Bloom, Virginia; bushey, shannon; Sreekrishnan, Tara; Rocha, Donald; Lehr, Bren  
**Subject:** ROV Casework  
**Attachments:** Response Letter RE Evan Low Nomination Documents.pdf  
**Expires:** Sunday, August 16, 2020 12:00 AM

Good afternoon, Mr. Ahrens –

Please find attached letter in response to your email below. Should you have questions, please do not hesitate to contact me. Thank you!

Bren Lehr, MMC  
Elections Division Coordinator, Candidate Services Division Manager  
County of Santa Clara Registrar of Voters  
1555 Berger Drive, Building 2  
San Jose, CA 95112



### VOTER'S CHOICE

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**From:** Sreekrishnan, Tara  
**Sent:** Thursday, February 6, 2020 2:30 PM  
**To:** Bloom, Virginia  
**Subject:** Fw: ROV Casework

Hello,

This is the correspondence from Evan Low's office RE ROV complaints. I'm sorry to say the rest was over the phone. Patrick is Evan Low's District Director. His email is \_\_\_\_\_

Thank you,  
Tara

**From:** Patrick Ahrens  
**Sent:** Monday, December 9, 2019 5:10 PM  
**To:** Rocha, Donald ; Sreekrishnan, Tara  
**Subject:** [EXTERNAL] ROV Casework

Hello,

Good speaking with you on the phone last Friday. As I mentioned, the Santa Clara County Registrar of Voters had incorrectly filed a number of candidates from Congress, to the Judiciary, as well Assemblymember Evan Low's nomination forms.

The apparent error occurred with the nomination form for a candidate's office where there was a pre-printed form with the candidate's name listed where a blank signature line should have been. This human error resulted in numerous candidates learning that their nomination forms were filed incorrectly, which required all of the candidates to re-file with less than 48 hours to file before the nomination deadline. This concerned Mr. Low with the integrity of our trusted system.

In one instance that we know of, nomination forms for a Member of Congress had to be overnight-express mailed to Washington, D.C. to correct this error.

Thank you for your close attention on this very important matter. Please let us know how we can help and ensure that this does not happen again in the future.

Sincerely,

Patrick Ahrens

Sent from my iPhone

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February 18, 2020

Mr. John Laird  
1214 King Street  
Santa Cruz, CA 95060

Dear Mr. Laird,

RE: Candidate Statement for 17<sup>th</sup> State Senate

On December 2, 2019, while submitting your candidate documents to be filed, ROV staff questioned the use of the sentence in your candidate statement that reads "I have the endorsement of the Democratic Party." We informed you at the time of your filing that we would research the Elections Code to confirm if an endorsement by a political party was acceptable. Elections Code Section 13307(a)(1) states "The statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations." After further review of the Elections Code it was determined that an endorsement of a candidate's party is allowed and we notified you of that decision the next day on December 3, 2019.

If you have any questions, please call Bren Lehr, Candidate Services Manager, at (408) 282-3041.

Sincerely,

Shannon Bushey  
Registrar of Voters

CRL/crl

cc: Virginia Bloom, Assistant Registrar of Voters  
Bren Lehr, Election Division Coordinator



## Bloom, Virginia

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**From:** Lehr, Bren  
**Sent:** Wednesday, February 19, 2020 11:10 AM  
**To:**  
**Cc:** Bloom, Virginia; bushey, shannon; Lehr, Bren  
**Subject:** Response to Candidate Statement Issue During Nomination Period  
**Attachments:** J. Laird Response to Candidate Statement Issue During Nom Period.pdf  
**Expires:** Sunday, August 16, 2020 12:00 AM

Good afternoon, Mr. Laird –

Please find attached letter in response to an issue that occurred with your candidate statement during the nomination period. Should you have questions, please do not hesitate to contact me. Hard copy to follow by mail. Thank you!

Bren Lehr, MMC  
Elections Division Coordinator, Candidate Services Division Manager  
County of Santa Clara Registrar of Voters  
1555 Berger Drive, Building 2  
San Jose, CA 95112



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Sent via email and USPS mail

December 18, 2019

Magdalena Carrasco  
10010 Clayton Road  
San Jose, CA 95127

Dear Ms. Carrasco:

Thank you for your letter regarding your interactions with my staff with respect to the information that may be included in the County Voter Information Guide (CVIG). Please let me assure you that, as Registrar of Voters, I am committed to ensuring that all candidates and members of the public receive accurate information regarding all aspects of the election process.

As you note, the Santa Clara County Candidate Guide states: "The candidate statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations." My staff directed you to this portion of the guide when you inquired about the inclusion of partisan information in the candidate statement.

For nonpartisan elective offices such as County Supervisor, Elections Code section 13307 prohibits mention of a candidate's "party affiliation" or "membership or activity in partisan political organizations," but it does not prohibit mention of individuals or organizations who endorse a candidate. So, for example, it is impermissible for a candidate to state: "I am a proud member of the Libertarian Party." But it would be permissible for that candidate to state: "I am endorsed by Jane Smith, chair of the Libertarian Party." Information about other candidates is prohibited as well pursuant to Elections Code section 13308.

Under Elections Code section 13308, my office would delete from a candidate statement information about the candidate's party affiliation, the candidate's membership or activity in partisan political organizations, or information about other candidates. However, in my judgment, the statement you identified in Otto Lee's candidate statement is consistent with the Elections Code because endorsements are relevant to a candidate's qualifications and are not the candidate's party affiliation or membership or activity in a partisan political organization. It is not the practice of my office to investigate whether information in a candidate statement is false or misleading because to do so would require extensive resources and time that the Registrar of Voters does not have.

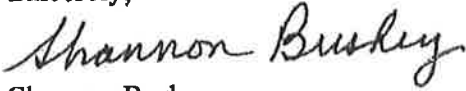
If a voter believes there is information in a candidate statement that is "false, misleading, or inconsistent with" applicable legal requirements, then the proper method for correction is to bring a writ of mandate as set forth in either Elections Code section 13313(b) (within the 10-day public examination period, which was December 7-

16, 2019 for the County Supervisor contest) or in Elections Code section 13314 (for an error or omission that has occurred or is about to occur in the printing of, among other materials, the CVIG).

Please note that the Registrar of Voters has set a final printing deadline of December 27, 2019, by which all final court orders regarding writs should issue so that the election can be conducted without disruption due to changes in the CVIG.

Thank you for your interest in these matters.

Sincerely,

A handwritten signature in cursive script that reads "Shannon Bushey".

Shannon Bushey  
Registrar of Voters

c: James R. Williams, County Counsel

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Copy



February 24, 2020

Councilmember Montano  
369 Summerfield Drive  
Milpitas, CA 95035

Dear Councilmember Montano,

RE: Response to Letter Submitted to Secretary of State Alex Padilla on December 26, 2019

I'm writing in response to the letter you sent to Secretary of State Alex Padilla on December 26, 2019, as well as communications with our office, to better explain the series of events that occurred. You had concerns regarding three issues: 1) the change of your ballot designation; 2) ballot designation discrepancies; and 3) inability to change your candidate statement and a customer service counter issue.

As you know, on December 2, 2019, you filed nomination paperwork for a State Assembly contest. On December 4, 2019, a Registrar of Voters staff member reached out to you regarding your ballot designation and an alleged need for a change. Consequently, you visited our office and changed your ballot designation from Teacher/City Councilmember to Teacher/Businessowner. Your initial proposed ballot designation would have followed the guidelines of Elections Code Section 13107(a)(3), and we apologize for staff's misdirection of these guidelines which led to the discrepancies in ballot designations that you identified. Please note that Candidate Services Manager Bren Lehr does intend to ensure staff receive better training, but also keep in mind that for state contests, the Registrar of Voters is not the elections official thus the Secretary of State should have made the decision about a ballot designation change.

On December 4, 2019, during your visit to our office, you inquired as to changing your candidate statement and were advised by our staff that you could not. Upon your request, a supervisor came over to explain that the Elections Code allows a candidate to withdraw their statement, however they cannot change their statement once filed.

I also wanted to address that on December 28, 2019, an email was sent to you from our Ballot Layout Division regarding your formatted candidate statement as part of the author review process. During this process, you were asked to ensure the formatted statement was presented precisely as it was submitted. On the following day we heard from you by email about your disappointment for not being allowed to make text changes to your filed statement before the filing deadline. You also questioned why you were now being allowed to make changes. Our office again explained that changes were not allowed, only confirmation that the formatted statement matched the candidate statement as submitted. We apologize for any inconvenience, miscommunications and unsuitable customer service you may have received.

If you have any questions, please call Bren Lehr, Candidate Services Manager, at

Sincerely,

Shannon Bushey  
Registrar of Voters

cc: Virginia Bloom, Assistant Registrar of Voters  
Bren Lehr, Candidate Services Manager