

CRI Selection Meeting Appeal Report

September 20, 2023

Background

On September 16, 2023, EPA facilitated the selection of ten representatives to participate in the Community Representation Initiative (“CRI”). The meeting consisted of candidates both in-person and online giving speeches to make their case for CRI selection. With input from community members, EPA developed guidelines for the meeting and selection of the CRI and provided them during the meeting. Voting occurred between 1:30PM and 4:00PM local time. Voters could submit their ballots in-person or online via the Zoom meeting and access by a link to Mentimeter.

At approximately 4:30PM local time, results were announced. All attendees were informed that they could submit a written appeal to EPA Region 9 Enforcement and Compliance Assurance Director Amy Miller by September 18, 2023.

EPA received 4 appeals. All appeals have been thoroughly evaluated and through use of meeting and selection documentation (e.g., computer chat, in-person ballots, usernames, etc.) . EPA did not find sufficient, or in some cases any, supporting information to justify overturning the results as announced on September 16, 2023. The ten representatives have been finalized. Below is a summary of the appeals and EPA’s responses.

Appeal #1:

Summary of Appeal: The appellant identified two complaints:

- 1.1 There were two separate ways to vote online. The appellant asked for clarity on how those options were provided.
- 1.2 The appellant provided a screenshot of a separate individual chatting with an EPA moderator, indicating that they could not get audio to work in the Zoom meeting.

Appeal Response: The online portion of the selection meeting occurred over Zoom where participants could tune in to listen to speeches. In order to vote, Zoom participants were redirected to Mentimeter, an online platform specializing in conducting real-time voting. Virtual participants were required to log into the Zoom meeting in order to receive the link to the Mentimeter voting platform. The purpose of the two-stage process was to ensure that everyone who voted in the election was present for at least a portion of the in-person or online meeting before receiving their ballot. Alerts with the instructions for Mentimeter were posted approximately every 10 minutes in the Zoom chat and anyone asking for additional instruction received a prompt response from an EPA or EPA contractor through the Q/A function on Zoom directing them to Mentimeter.

EPA provided many options for public participation in the meeting. Members of the public were able to:

- Attend in-person at Salt Lake Elementary
- Log in to the Zoom platform to watch the meeting virtually
- Dial in to the Zoom platform to listen to the meeting via phone
- Watch on local television 'Ōlelo 53.
- Watch streaming via 'Ōlelo 53.

EPA had monitors in the virtual meeting to ensure all candidates could be heard on the electronic platform. The EPA monitors reported no outages. In the Q/A, only three people identified any issues with being able to hear the Zoom meeting. EPA does not believe this was related to any audio issues with the Zoom meeting.

Additionally, although EPA made every effort to accommodate everyone who wanted to listen to the candidates provide speeches, listening to the meeting was not necessary in order to vote. All candidate bios were posted on EPA's website over a week prior to the vote and access to ballots was provided to anyone attending in-person or logged into the Zoom meeting.

Consideration of these facts and circumstances does not support overturning the results as announced on September 16, 2023.

Appeal #2:

Summary of Appeal: The appellant identified 10 complaints:

- 2.1. It has been reported there were extra nomination sheets.
- 2.2. Voters were having difficulty voting because the link was in the chat, but the chat was disabled so they couldn't log in.
- 2.3. There was not supposed to be any politicking in the building or during nominations, however one of the nominee's speeches was used to advocate for other candidates.
- 2.4. People were not encouraged to go to the Q&A section to get the link to vote.
- 2.5. The ballots were not accurate, people were not taken off, and people were not in the right spot. It was stated in an Interim CRI meeting that if this occurred the EPA would try to validate the vote.
- 2.6. The appellant was asked and was told to vote again during the voting period to correct her vote but that would have led her to vote twice which she was not supposed to do. She did not vote a second time and was also not contacted by an EPA official to correct her vote.
- 2.7. Individuals participating in-person were not supposed to access the meeting or vote online, however that did occur.
- 2.8. The Mentimeter link was not meant to be shared outside of the virtual meeting, however the link was shared through social media. Voters were required to have a Zoom log-in in order to vote online.
- 2.9. Individuals who shared the Mentimeter links were intentionally and knowingly breaking the rules of the election. Several of these individuals who shared the link were present in-person which means they had accessed the online meeting platform in addition to the in-person event. Since these individuals

demonstrated lacked integrity and had demonstrated access to both the in-person and online meeting it is likely they may have voted twice.

2.10. Appeals should be considered by the EPA and interim CRI. CRI members in question should be removed or suspended until the process is resolved. How will the appeal process be handled?

Appeal Response:

In-person ballots were signed out to individuals who registered as voters and assigned unique identification numbers. At the end of the voting process, each ballot was accounted for and no extra paper ballots were distributed to unregistered voters. Supplemental information, distinct from the paper ballots, including background information on nominees, was freely distributed to help inform the voters and not used in the vote tally. It appears that the extra sheets may have been mistakenly thought to be extra paper ballots. EPA only accepted the official paper ballots for in-person voting.

EPA monitored campaigning at the event, including the distribution of materials by candidates or proponents of candidates. Any individuals handing out materials within or at the entrance to the facility were promptly removed. Attendees were allowed to bring in reference materials if they were received outside of the premises of the facility.

Alerts with links to Mentimeter were posted regularly in the Zoom meeting chat approximately every 10 minutes. Although the Chat was disabled, EPA representatives were available through the Q/A feature and responded expeditiously to any inquiry, of which EPA received and responded to approximately 147 questions, including about 25 relating to voting instructions.

EPA acknowledges that one of the candidates was placed on the electronic ballot in an incorrect category. That issue was resolved transparently early in the voting process through an announcement regarding the correction during the meeting. Any vote cast for that individual in any category was added to their total vote count in the proper category, so no votes were excluded for that candidate. The appellant's vote for that individual was reflected in the total vote count. According to the Q/A log, the appellant was not encouraged to vote an additional time. If the appellant had attempted to vote an additional time, Mentimeter technology would not have permitted it.

EPA acknowledges that one of the nominees used their platform to advocate for specific other candidates during their speech. EPA's ground rules did not explicitly prohibit nominees from advocating for other candidates. Each nominee was allowed to use their full two minutes to address their fellow community members. The moderator did, however, intervene during the speech and caution against advocating for candidates at which point the nominee ceased.

EPA conducted an audit of all in-person and online voters. In total, there were 55 in-person and 347 Mentimeter ballots cast. There were a total of 359 participants in the Zoom meeting. Of the 347 Mentimeter ballots cast, 319 directly corresponded to a Zoom username. Of the remaining 28 ballots, it is possible that these voters used separate usernames between the Zoom meeting and Mentimeter so there isn't enough information supporting the invalidation of these ballots. In addition, because these votes were limited in quantity (less than 7% of the total votes), EPA believes that if voting did occur outside of the meeting, it was not widespread and did not materially affect the outcome of the election.

EPA additionally compared the names of the registered in-person voters to those of the online voters. EPA did not find any duplicate names so there were no duplicate votes that EPA could discern, nor have we observed any evidence that any individual voter voted multiple times.

All appeals have been fully and directly considered by EPA and do not include review from either the CRI or Interim CRI as individuals in both groups have a vested interest in the outcome of the election. The outcome of the consideration of the appeals is summarized within this document and will be shared with the CRI and public.

Consideration of these facts and circumstances does not support overturning the results as announced on September 16, 2023.

Appeal #3:

Summary of Appeal: The appellant identified 1 complaint:

3.1. According to the Final Guidelines for CRI Selection Meeting provided by the EPA, campaigning for specific nominees, including handing out information material about candidates, was not allowed within the facility. However, campaigning flyers were freely distributed to attendees and the candidates promoted on the flyers matched the eventual selected members of the CRI.

Appeal Response: EPA monitored campaigning at the event, including the distribution of materials by candidates or proponents of candidates. Any individuals handing out materials within or at the entrance to the facility were promptly removed. Attendees were allowed to bring in reference materials if they were received outside of the premises of the facility.

Consideration of these facts and circumstances does not support overturning the results as announced on September 16, 2023.

Appeal #4:

Summary of Appeal: The appellant identified 4 complaints:

4.1. More than fifty individuals were unable to participate in the vote as they were unable to access Zoom because the instructions provided to them did not provide complete instructions for ballot acquisition. We were informed by these disenfranchised voters that they were unable to vote. This constituted a violation of provisions related to ballot preparation.

4.2. One or more speakers purporting to be a candidate(s) for seat(s) on the Community Representation Initiative stated that he/they recommend that voters select other candidates whose names appeared on the paper slate, bearing "Community Representation Initiative Endorsed Candidates." Most of the desks of voters within the Salt Lake School voting facility had copies of this paper list of "Community Representation Initiative Endorsed Candidates." Those observing the proceedings were prejudiced by this list of endorsed candidates being on the desks inside the voting facility. No one was reprimanded for

campaigning and/or electioneering. This constituted a violation of prohibitions against campaigning and electioneering.

4.3. Voters were not notified about voter qualifications in advance of the election and arrived at Salt Lake Elementary School to learn that there was an age qualification to ascertain voter eligibility. Voters had to be more than sixteen years of age to be eligible to vote. The appellant questions how eligibility was established, either online or in person and how voter eligibility was verified. This constituted a violation of voter eligibility provisions.

4.4. Voters were instructed to go to the Mentimeter website through Zoom. Some voters were unable to access the Mentimeter website to cast their votes. This constituted a violation of the provision relating to the casting of votes.

Appeal Response: The virtual selection meeting was conducted over Zoom. Instruction and links for joining the Zoom meeting were distributed widely. Zoom is a popularly used platform for hosting virtual meetings. EPA provided contact information for any individuals who had questions about accessing the virtual meeting, but EPA's contact person did not receive any inquiries or complaints during the meeting from individuals who were unable to access the meeting.

In order to vote, Zoom participants were redirected to Mentimeter, an online platform specializing in conducting real-time voting. Participants had to log into the Zoom meeting in order to receive the link to the Mentimeter voting platform. The purpose of the two-stage process was to ensure that everyone who voted in the election was present for at least a portion of the in-person or online meeting before receiving their ballot. Alerts with instructions for Mentimeter were provided approximately every 10 minutes in the Zoom chat and anyone asking for instruction received a prompt response from an EPA or EPA contractor through the Q/A function on Zoom directing them to Mentimeter.

EPA is unaware of a widespread difficulty with voting. EPA has not been contacted by any individual who has stated that they were present during the voting window but were ultimately unable to vote.

EPA acknowledges that one of the nominees used their platform to advocate for specific other candidates during their speech. EPA's ground rules did not explicitly prohibit nominees from advocating for other candidates. Each nominee was allowed to use their full two minutes to address their fellow community members. The moderator did, however, intervene during the speech and caution against advocating for candidates at which point the nominee ceased.

EPA monitored campaigning at the event, including the distribution of materials by candidates or proponents of candidates. Any individuals handing out materials within or at the entrance to the facility were promptly removed. Attendees were allowed to bring in reference materials if they were received outside of the premises of the facility.

EPA did set an age restriction for voting. Setting a minimum age for voting is a common practice in any election to preempt coercion and exploitation of minors. Through feedback during the early CRI scoping meetings with the community, there was significant interest in ensuring youth voice was represented in the process, so EPA decided to establish a voting age of 16. Voters had to attest that they were above 16 years old in order to receive a ballot. EPA is not aware of any voters who attempted to cast ballots despite being below the minimum age threshold.

Consideration of these facts and circumstances does not support overturning the results as announced on September 16, 2023.