

# Pacifica Bylaws Referendum 2020 - Final Report

By Renée Asteria Peñaloza, National Election Supervisor

Assisted by Jack VanAken and Terry Goodman

## Table of contents

Summary...	1
Background...	1
Timeline...	2
Petition Vetting...	3
Referendum Preparation...	3-5
Balloting Period...	6-8
Campaign...	8-9
Results...	10
Cost...	11
Election Inspector Observations...	11-12
Conclusions...	12

Exhibit A-1 Petition - Pacifica Reform	
Exhibit A-2 Proposed Bylaws	
Exhibit B Current and Proposed Bylaws Comparison	
Exhibit C-1 Paper ballot	
Exhibit C-2 E-Ballot Listener English	
Exhibit C-3 E-Ballot Listener Spanish	
Exhibit C-4 E-Ballot Staff English	
Exhibit C-5 E-Ballot Staff Spanish	
Exhibit C-6 Postcard	
Exhibit D-1 Fair Campaign Provisions	
Exhibit D-2 Fair Campaign Violations Form	
Exhibit D-3 Fair Campaign Violations Responses to Complaints	
Exhibit E Bylaws Feedback Form	
Exhibit F-1 Ballot Replacement Form	
Exhibit F-2 Ballot Handling Protocol - Special Assistance	
Exhibit G Debate Protocol	
Exhibit H-1 NDA Petition List	
Exhibit H-2 NDA Final List	
Exhibit I - E-Campaign summaries	
Exhibit J-1 Simply Voting Certified Results PDF for Pacifica - Listener	
Exhibit J-2 Simply Voting Certified Results PDF for Pacifica - Staff	

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## SUMMARY

The Pacifica Bylaws Referendum 2020 was certified on March 23rd, 2020. Voter turnout was higher than in any prior Pacifica election, with 23% and 52% turnout in the listener and staff membership categories, respectively. Overall, two-thirds of listener and staff members voted “no” to replacing the current bylaws with the proposed bylaws. There were differences in voting behavior by station. The total cost to pay the national election supervisor and the vendors was \$53,000.

## Recommendations

The national election supervisor recommends that Pacifica invest in creating a global database to track listener and staff members at all stations. This will facilitate creating elector lists based on eligible members for all future delegate elections or referendums.

## BACKGROUND

Pacifica Foundation, the parent nonprofit organization that owns radio stations 94.1 FM KPFA (Berkeley, CA), 90.7 FM KPFK (Los Angeles, CA), 90.1 FM KPFT (Houston, TX), 99.5 FM WBAI (New York City, NY) and 88.1 FM WPFW (Washington D.C.) faced a proposed restructuring of its governance including its board of directors, the Pacifica National Board. The Pacifica Bylaws Referendum was ordered by the Alameda court on January 23rd, 2020, in response to a petition signed by more than 1% of Pacifica’s members. The record date of January 2nd, 2020 was set by court order. The proponents of the petition (Exhibit A-1) put forth a set of proposed bylaws (Exhibit A-2) which would replace the current bylaws. For comparison of the current and proposed bylaws please refer to Exhibit B.

The Pacifica Bylaws Referendum consisted of two parallel votes, one amongst eligible listener members and one amongst eligible staff (paid and unpaid) members at all five stations. Listener members eligible to vote were individuals who donated a minimum of \$25 or who volunteered a minimum of 3 hours between January 03, 2019 and January 02, 2020 (the record date). Examples of eligible volunteer work included: working in the fund telephone room during fund-drives and serving on local station board committees. Eligible staff members were those on payroll or classified as unpaid staff as of January 2nd (the record date). Unpaid staff were defined as having completed 30 hours minimum of work (outside of fund-drives) between October 3rd, 2019 and January 2nd, 2020 (3 month period) at KPFK, KPFT, WBAI and WPFW as defined by the Pacifica Bylaws. At KPFA, the definition for unpaid staff is 30 hours of work (outside of fund-drives) between January 3rd 2019 and January 2nd 2020 (12 month period) as defined by the KPFA Unpaid Staff Organization Bylaws. Member eligibility criteria is defined in Article 3, Section 1 of the Pacifica Bylaws. Quorum for listener and staff votes was 10% and 25% of total eligible members in each voter type, respectively as prescribed by the Pacifica Bylaws (Article 3, Section 7).

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## TIMELINE

### December to January 2020

- Petition verification

### January 23rd

- Court order setting referendum in motion and record date to January 2nd, 2020
- NES placed under contract

### January 23rd to February 10th

- Vendors contracted - Simply Voting / Honest Ballot
- NES coordinates with station management and membership departments and prepares deliverables, elector lists, ballot materials, non-disclosure agreements and mailing lists for 3rd party mailing houses.
- Election Inspectors are appointed

### February 17th

- First series of on air referendum carts developed by election staff are deployed to all 5 stations

### February 18th

- Balloting period is opened and ballots go out (e-ballots, paper and postcards)

### February 18th to March 19th

- NES and vendors fulfill ballot requests and provide electors assistance
- E-campaigns, second series of carts, and debates are produced and distributed by election staff to station management and electors

### March 19th, 11:59 PM EST

- Voting period closes

### March 21st to March 22nd

- Paper Ballot data entry by Honest Ballot

### March 23rd

- Simply Voting provides final results
- NES certifies and releases final results

# **Pacifica Bylaws Referendum 2020 - Final Report**

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## **PETITION VETTING**

December 2019 to January 2020

The national election supervisor (NES, Renee Asteria Penaloza) for the 2019 Local Station Board Elections compiled preliminary membership lists from all stations in order to confirm that the signatures corresponded to current Pacifica members (any station) and met the 1% minimum requirement. After confirming this, the NES was contracted to contact all individuals who signed the petition via email or phone to ensure that individual member e-signatures corresponded to true signatures.

## **REFERENDUM LAUNCHED**

January 23rd, 2020

### **Record date**

The court directed the referendum to be carried out and set the record date to January 2nd 2020. The NES was placed under contract by the iED, Lydia Brazon.

## **REFERENDUM PREPARATION**

January 23rd to February 18th

### **Securing vendors**

The NES worked to secure the same vendors used in the 2 prior delegate elections which she had also supervised. Vendors Simply Voting, based in Canada, would provide electronic campaign management set-up and final results, and would work together with NYC-based company Honest Ballot, which would be responsible for printing and postage of physical ballots, paper and postcards, as well as interfacing with the NES daily for e-ballot and paper ballot issuing and reissuing throughout the balloting period. Vendors sent estimates and proposed a timeline for the referendum in accordance to what would be technically feasible and maximally compliant with the court order and the Pacifica Bylaws. The NES sent the estimates and timeline to Pacifica's legal counsel (Arthur Schwartz), the iED and the Pacifica National Board (PNB) for approval. The budget was approved by the PNB. NETA disbursed the NES first payment and payment-in-advance of the vendors' estimated billings. It was determined that the balloting period would open on February 18th and close 30 days later, on March 19th at 11:59 PM EST. All key dates and times were set to EST, the vendor timezone, as was done in the 2 prior delegate elections.

### **Deliverables**

#### *Membership lists*

The NES requested lists from station membership departments, business managers and station managers. A few reminders were sent as departments did not send these lists immediately. An updated staff list was provided by KPFT. The prior staff lists from the 2019 delegate elections were sent to management at 4 of the 5 stations for updating and approval.

# Pacifica Bylaws Referendum 2020 - Final Report

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All lists were received by February 7th, 2020. The NES combined the lists, cleaned and checked key fields (city, state, zip code, email) using a software called STATA. For members with email addresses, she ran an e-campaign through Constant Contact in order to identify bounced and invalid addresses. Using key fields, she identified members who had requested a paper ballot in the 2019 delegate elections to receive a paper ballot for the referendum. The NES ran various field queries using STATA to identify duplicates (combinations of first or last names, zip code, address) as well as to remove staff members from the listener lists.

The NES provided the vendors with two clean membership lists, Staff and Listener members, split out to receive 1 of 3 types of ballots to reduce paper waste and cost. Members who requested a paper ballot in prior elections would receive a paper ballot in this election. Members with a valid email address would receive an e-ballot. Members without a valid email address would receive a postcard with their elector ID and password beneath a scratch off. A list of bad zip codes (~2,900) was identified after the first batch of postcards had already been printed. These zip codes were fixed and a second batch was printed (additional printing and postage cost of \$3,000).

## *Ballot materials*

Vendors required all materials by February 7th in order to prepare ballots to go out on the 18th. The NES prepared paper and e-ballot text and designed the postcard. Various iterations of proofing occurred prior to finalizing the ballot materials. E-ballot text was translated by the NES into Spanish. See Exhibit C (1-6) for the sample ballots (paper, e-ballot and postcard).

*Table 1. Percent of Total Electors by Station and Member Type*

	<b>Listener (%) N=42291</b>	<b>Staff (%) N=993</b>
<b>KPFA</b>	29%	22%
<b>KPFK</b>	32%	27%
<b>KPFT</b>	10%	17%
<b>WBAI</b>	14%	22%
<b>WPFW</b>	14%	12%

# Pacifica Bylaws Referendum 2020 - Final Report

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*Table 2. Percent of Total Electors by Ballot Type*

	<b>All Electors (%) N=43484</b>
<b>E-ballot</b>	67%
<b>Postcard</b>	32%
<b>Paper ballot</b>	0.40%
<b>Telephone</b>	0.05%

## **Election inspectors**

The court ordered that 2 volunteer election inspectors be appointed to supervise the election with the NES. These two inspectors were Terry Goodman, appointed by the proponents and Jack VanAken, appointed by Pacifica. Both had experience with Pacifica and were neutral (no expressed position on the Referendum). The NES worked closely throughout the referendum with the election inspectors for all key decisions such as responding to complaints, developing carts and debate materials, as well as providing special assistance to members.

## **Fair Campaign Provisions**

The NES developed Fair Campaign Provisions to set guidelines to ensure that Pacifica resources (airwaves, station resources, membership lists) were not used to push one position or the other. These were sent out via e-campaign to all staff and membership on February 11th 2020. An online form to collect complaints was set up in order to track and respond to violation complaints. The response to any given complaint was a result of discussion and majority agreement amongst election staff. When a complaint required a remedy, the NES took action as quickly as possible given the time constraints that occur when communicating with various parties. See Exhibit D (1-3) for Fair Campaign Provisions, the form to collect complaints, and the election staff responses to the complaints.

## **First Series of Carts**

The first series of scripts for the carts for airing pulled arguments submitted by both sides via a survey which went out with the first referendum e-campaign used to clean out bad emails. The scripts were developed by election staff under pressure to provide stations with carts to air by February 17th to begin airing February 18th. See Exhibit E for the raw responses to the referendum survey.

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## **BALLOTING PERIOD**

February 18th to March 19th

### **Ballot issuing & reissuing protocol**

Ballots were sent via e-campaign or first class mail (paper ballots and postcards). The NES set up an online ballot request form and an election hotline to collect e-ballot requests (e-ballot replacement or paper ballot). See Exhibit F-1 for the online ballot replacement form.

Paper ballot requests were accepted through March 12th after which only e-ballots were available. This deadline was set by Honest Ballot in order to make sure that paper ballots would be delivered to voters early enough for them to be returned-before the deadline of March 19th. E-ballot requests closed at 4 PM on March 19th in order to allow the time to process all requests prior to the deadline of 1159 PM EST on March 19th. The election hotline was to be reserved for members without access to the internet and was monitored through March 19th.

Ballot requests for members with access to the internet were accepted via the ballot request form only. An email message to the NES requesting a ballot, like an email message to the NES complaining of a campaign violation, was answered with a request that the voter instead use the appropriate form on the elections website. This protocol was the same as in the 2 prior delegate elections, therefore most members and station staff were familiar with the requirement.

The NES processed ballot requests daily, matching incoming requests with the official elector lists on key fields, such as full name, email address, and street address. E-ballot requests from members who were on the official lists were fulfilled by the NES via e-campaign from [nes@pacifica.org](mailto:nes@pacifica.org). Paper ballot requests from members who could be verified by the NES were added to a list to be sent to Honest Ballot. Contact details for members that could not be identified in the official lists were sent to the appropriate station membership department for status verification.

Unverified members who requested ballots (e-ballots or paper ballots) and were subsequently verified by station membership departments were added to a list to be sent to Honest Ballot for ballot issuing. Members that could not be verified by the NES or the membership department were sent a notice and asked to supply proof of membership such as a receipt. Members who provided proof of membership were sent to station membership departments for re-verification. The NES added re-verified members to the list to be sent to Honest Ballot.

All ballot requests (paper, e-ballot) and list modifications (updating of member addresses, names, additions of new members) were compiled daily and sent to Honest Ballot for processing. Lists were sent more frequently during the last day in order to address high demand and speed up turn around time. All ballot requests and list modifications were tracked using a spreadsheet stored on Pacifica's server.

# Pacifica Bylaws Referendum 2020 - Final Report

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## Ballot reset courtesy

To address the desire of a few voters to change their vote in response to new information they had been exposed to subsequent to voting, the election staff decided that they would allow a 1 time reset of ballots, since this was technically feasible, but only through March 12<sup>th</sup>, so as to avoid impeding the NES from addressing regular ballot requests in a timely fashion.

## Automated e-ballot reminders

Simply Voting sent automated e-ballot reminders to members who had not yet voted weekly each Tuesday. For both the Listener and Staff elections, the email blasts went out on: 2/18 (first), 2/25, 3/3, 3/10, and 3/17. These e-ballots came from [vote@simplyvoting.com](mailto:vote@simplyvoting.com). Honest Ballot issued subsequent e-ballots to new members added to the lists on a daily basis as submitted by the NES. The first of these e-ballots were sent from [vote@honestballot.com](mailto:vote@honestballot.com), subsequent reminders were sent by [vote@simplyvoting.com](mailto:vote@simplyvoting.com) and by [nes@pacifica.org](mailto:nes@pacifica.org).

## Special assistance protocol

Special telephone assistance for members with disabilities (e.g. blind members) who missed the paper ballot deadline was extended to 22 members. Ballot requests received via voicemail (510 931 7504) and via the ballot request form were first verified for eligibility by the NES. The NES then sent this list to Honest Ballot. Honest Ballot issued a different ID using numbers only and sent this list back to the NES. The NES sent this list to the election inspectors tasked with calling voters to explain how to cast their vote by phone. A script approved by election staff and vendors was used to make phone calls. See Exhibit F-2 for the ballot handling protocol for members requiring special assistance.

## Ballot request details

A total of 4091 ballot requests were processed over the 30 day balloting period. Most of these were submitted using the ballot request form. A couple hundred calls to the election hotline were screened leading to ~100 unique voicemail messages with ballot requests. Eighty-four percent of the requests were for an e-ballot and 16 percent for a paper ballot. Ninety-three percent of requests were for listener ballots and 7 percent for staff ballots.

*Table 3. Percent of Total Ballot Requests by Station and Member Type*

Total N=4091	Listener (93%)	Staff (7%)
KPFA	38%	15%
KPFK	25%	13%
KPFT	7%	8%
WBAI	20%	43%
WPFW	10%	20%

# Pacifica Bylaws Referendum 2020 - Final Report

By Renée Asteria Peñaloza, National Election Supervisor

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Ninety percent of ballot requests were from individuals already on the member rolls. About 150 members were added as a result of requests for a second household ballot for a spouse or family member for memberships with a minimum donation of \$50. The remaining 10 percent were sent for verification to membership departments. These members were issued ballots if payment during the time frame in question (01/03/2019-01/02/2020) was demonstrated either by the member providing evidence or the membership department finding the member under a different name or address or if the member was verified as a volunteer. Additions to the staff list were sent for approval by the station management and were approved for a ballot if management approved their staff status. Members that were not verified were not sent a ballot.

## **CAMPAIGN**

February 18th to March 19th

### **Official election materials**

- 1) E-campaigns
- 2) Carts (2 series, in English and Spanish)
- 3) Debates
- 4) Election Website ([elections.pacifica.org](http://elections.pacifica.org)), which included:
  - a) a section for 1000 word statements by proponents and opponents
  - b) documentation of differences between current and proposed bylaws
  - c) transcriptions of unauthorized broadcast discussions of the referendum
  - d) A page with summarized materials in Spanish

### *E-campaigns*

A total of 36 e-campaigns, which included e-ballots in response to ballot requests, were sent by the NES over the course of the referendum. The first e-campaign was sent on February 10th, which had a dual purpose, to quality check the email list prior to sending member lists to the vendors and collect broad member input for the development of the first series of informational carts.

### *Carts*

A total of 11 different carts were produced and sent to stations for rotation over the course of the referendum. The script, developed with the election inspectors, ensured equal time for both arguments in addition to providing key election information to members (deadline, election website and election hotline number). The first series and second series of carts were deployed to stations on Feb 17th and Feb 25th, respectively.

### *Debates*

A debate protocol was developed by the NES (Exhibit G). Debates were pre-produced at KPFK (03/09, air date 03/11) and KPFA (03/10, air date 03/11) and live on air at KPFT (03/12). Election inspector Jack VanAken moderated the KPFK debate which was subsequently translated into Spanish. The NES moderated the other debates at KPFA and KPFT. An in-person staff debate was held at KPFA on 03/11 and the recording was distributed to staff.

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## Pacifica Bylaws Referendum 2020 - Final Report

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This meeting was limited in number of participants (maximum of 10 total) due to the coronavirus pandemic.

### **E-campaigns via 3rd party vendors**

#### *Membership list updates and delivery protocol*

Mailing lists were sent to approved mailing houses that signed a non-disclosure agreement (Exhibit H-1/2). Lists were updated regularly, removing electors that requested to be unsubscribed as well as electors who had already voted. These updates were necessary in order to reduce the number of SPAMspam/abuse complaints received by the mailing houses. As reported by one of the mailing houses, complaints reached a peak of 2.6 per thousand at the beginning of it all in February and were only 0.6 per thousand in the final weeks. While bounce rate could not be estimated specifically for these campaigns, the mailing houses bounce rates are always very low .05-2% max as they clean each list as it is being sent out.

#### *Schedule of membership list deliveries*

##### *- February 1st - Member list used to vet the petition*

A preliminary, uncleaned list corresponding to the membership list used to vet the petition was sent to the proponent's mailing house on 02/01 in response to an urgent request to send out an e-campaign. For the record, the NES notified the proponents that there would be many invalid email addresses, hence the bounce rate would be high. The NES was correct, 1300 plus emails bounced. The NES also stated that the list provided corresponded to different cut-off dates, hence it included members who will not be able to vote in the referendum. She also cautioned that sending out an e-campaign to a poor quality list may affect deliverability of future e-campaigns.

##### *- February 10th - Final member lists for e-campaigns*

The first official member lists were delivered to 3rd party mailing houses on February 10th, the same day these were sent to Honest Ballot and Simply Voting. This was the earliest date possible as all stations had lagged at getting me updated lists.

##### *- February 13th - Final member lists for postal mailings*

Due to an error in zip codes which had to be corrected, the NES took an additional 2 days to send final lists to mailing houses with the corrected zip codes.

##### *- February 23rd to March 18th - Final member list updates*

Mailing houses were sent updated lists on 02/23, 02/28, 03/01, 03/05, 03/11, 03/13, 03/16, and 03/18. All mailing houses received the lists at the same time. The NES was clear that the mailing houses were required to use the updated lists.

Please see Exhibit I for the summary of e-campaigns sent out by mailing houses by both proponents and opponents.

# Pacifica Bylaws Referendum 2020 - Final Report

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## RESULTS

March 23rd

### Overall

The total number of eligible listener members was 42,491. Twenty-three percent of members voted, of these, 66% voted “no”. The total number of eligible staff members was 993. Fifty-two percent of staff members voted, of these, 65% voted “no”. Please see Exhibit J (1/2) for official letters from Simply Voting with the certified results.

Both the listener and staff vote breakdown by station revealed significant differences in voting patterns amongst both classes of members at all stations.

*Table 4. Listener Member Vote - Percent Voted by Station and Vote Type*

Percent of total (N=42491)	Electors (%) N=42491	Voted (%) N=9714	No (%) N=6340	Yes (%) N=3273	Abstain (%) N=101
KPFA	29%	38%	59%	40%	1%
KPFB	32%	22%	54%	45%	1%
KPFT	10%	9%	48%	51%	1%
WBAI	14%	17%	95%	4%	1%
WPFW	14%	13%	76%	22%	2%

*Table 5. Staff Member Vote - Percent Voted by Station and Vote Type*

Percent of total (N=993)	Electors (%) N=993	Voted (%) N=512	No (%) N=331	Yes (%) N=177	Abstain (%) N=4
KPFA	22%	23%	42%	57%	1%
KPFB	27%	21%	42%	57%	1%
KPFT	17%	11%	35%	66%	0%
WBAI	22%	30%	95%	4%	1%
WPFW	12%	15%	94%	5%	1%

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## **COST**

The total cost of the referendum was \$53,034.12.

- NES fee \$21,000
- Simply Voting - \$13,853.72
- Honest Ballot - \$18,030.40
- Simultaneous translation contractor \$150.00

## **ELECTION INSPECTOR OBSERVATIONS**

### **Jack VanAken, Election Inspector for the Pacifica Bylaws Referendum**

In my observation the Election Inspectors Committee (EIC) operated smoothly and without rancor. Our purpose was to see that the election operations went to plan and that decisions were made with neutrality as the uppermost consideration. Typically our internal deliberations did not divide along partisan lines, although each of the three of us brought unique perspectives based on our individual experiences with the Pacifica Foundation.

One question which we did encounter midstream was the matter of some voters wanting to change their votes, arguing that, subsequent to voting, they had been exposed to new material from respected individuals etc. This required a balancing act on the part of the EIC between honoring the spirit of fairness, and potentially enabling a disruption of the mechanics and timeline of the referendum altogether. The NES was already flooded with various ballot requests on a daily basis. The EIC opted to permit votes to be “reset” up until a date certain (March 12), beyond which honoring those requests would have been overly disruptive.

Further, the fact that a reset option was available at all seemed to encourage some partisan operatives to try to game the reset vote by pushing for more resets, which would have taxed the system unduly.

In hindsight this decision would better have been arrived at prior to the open of balloting. I did not dissent from this decision at the time, but it is now my considered view that all votes should be final.

There were numerous acts of mischief and evident bad faith on the part of campaigners on either side of the central question. For this reason I thought it should be a priority to document and respond, as a committee, to all properly filed complaints. This I know we accomplished in a dispassionate and thorough manner.

### **Terry Goodman, Election Inspector for the Pacifica Bylaws Referendum**

Due to music licensing agreements, many Pacifica broadcast recordings expire from the publicly-accessible online archives automatically maintained for each station. For future elections, it would be wise to notice on the elections website that complaints of broadcast fair campaign violations must be registered within two weeks of the alleged violation and should

## **Pacifica Bylaws Referendum 2020 - Final Report**

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include in the complaint a description of the violation, the station call letters, the date, and the approximate time of the broadcast in question.

### **CONCLUSIONS**

The “no” side prevailed. However, the differing voting patterns by station indicates there is a clear divide that exists between stations, for both staff and listener members. Much work needs to be done at the national level to resolve these rifts if the Pacifica Foundation is to survive. From a technical standpoint, once again, the membership lists were challenging. A global database with listener and staff members should be developed.