

## ELECTION PROCEDURES

Pursuant to Food and Agricultural Code §67082, the California Avocado Commission establishes the following Election Procedures.

### **I. Voter Eligibility**

- A. Each legal entity, whether as a sole proprietorship, partnership or corporation, shall be entitled to one (1) vote for each nominee for which it is eligible to vote.
- B. The right to vote is retained by the legal entity that pays assessments on the property's fruit production.
- C. All producers of record may vote for producer members and alternate producer members in the district in which they are eligible to vote.
- D. All handlers of record may vote for handler members and alternate handler members.
- E. A voter shall be eligible to vote in only one district. Voters who grow or handle avocados in more than one district must select one district in which they wish to vote. Voters who are eligible as both a grower and a handler must declare in writing prior to each election whether they will be voting as a grower or a handler.
- F. There shall be no proxy voting.

### **II. Nominations**

- A. Any producer may be nominated for election to the Commission if he or she presents to the Commission a petition with the signatures of five (5) eligible producers (refer to Voter Eligibility and Qualifications for Nomination sections for clarification) in the district in which the person is seeking election. The petition must be received by the Commission by a date specified by the Commission annually. A producer already serving on the Commission may simply notify the Commission of his or her intention to run for re-election without providing a petition signed by five other producers of the same affiliation in the same district.
- B. Handlers shall be nominated for election to the Commission when they present to the Commission a petition with the signatures of five (5) eligible handlers. The petition must be received by the Commission by a date specified annually by the Commission. A handler already

serving on the Commission may simply notify the Commission of his or her intention to run for re-election without providing a petition signed by five other handlers.

C. All persons nominated to serve on the Commission must sign a statement of willingness to serve on a form prescribed by the Commission.

### **III. Voter Access Regulations**

A. Candidates may request that the Commission conduct an informational mailing to producers eligible to vote pursuant to Voter Access Regulations established by the Commission.

### **IV. Qualifications for Nomination as Commission Member and Alternate**

#### **A. General Qualifications**

1. **Good Standing.** Any person nominated shall be in compliance with all the requirements of the Commission Code of Conduct and Ethics and Commission law including, but not limited to, the prompt and timely payment of assessments, and the delivery to the Commission of assessment reports and records as prescribed by the Commission.
2. **Limitations of Eligibility**
  - a) Except as provided in subsection (b), not more than two individuals on the Commission and not more than one individual from any district shall be employed by or represent the same corporation, firm, partnership, association, or business organization. This limitation shall apply during each individual's entire term of office.
  - b) Not more than one individual shall represent the same handler on the Commission.
  - c) An individual may not run for more than one affiliation, producer or handler, on the Commission at a time. If an individual is nominated for more than one affiliation during an election, the nominee must declare in writing the affiliation, producer or handler, for which he or she will run.
  - d) An individual currently seated on the Commission as a member or alternate may not run for another seat on the Commission without first resigning from their existing seat except as follows: an alternate desiring to run for his or her corresponding member's seat shall not be required to first resign his or her alternate seat.
  - e) A member who resigns from the Commission shall not be re-seated by a majority vote of the Commission unless at least one year has elapsed

since the date of the member's resignation. For the purposes of Paragraph VII.A of these Procedures, such individuals shall not be considered "qualified" persons during that one-year period.

B. Producers

1. Any person nominated as a producer shall certify to the satisfaction of the Commission that he or she is engaged, within the state, in the business of producing or causing to be produced avocados for market through a legal entity (individual ownership, partnership, corporation, etc.) which is not also involved in the handling of avocados. "Producer" does not include any person who has an average annual production of less than 10,000 pounds of avocados in the three preceding marketing years.
2. To be eligible to represent a district, a person must currently be an assessment-paying producer of avocados in that district.
3. A person shall be nominated in only one district. Producers who grow avocados in more than one district must select one district in which they wish to be nominated.
4. Any producer elected to the Commission shall maintain his or her qualifications during the entire term of office.

B. Handlers

1. Any person nominated as a handler shall certify to the satisfaction of the Commission that he or she has a financial interest in handling avocados for market either through ownership, employment or membership in a legal entity which is actively and directly engaged in the handling of avocados. For the purpose of qualifying for nomination, the term "actively and directly engaged in the handling of avocados" shall be defined as follows:
  - a) Direct involvement (not through an agent) in the selling, marketing, distributing, receiving, grading, packing, canning, extracting, preserving, grinding, crushing or changing the form of avocados for the purpose of preparing avocados for market; and
  - b) Retaining ultimate control over the handling of avocados and liability for payment of CAC assessments.

2. To be eligible to serve in a handler seat, a handler or alternate handler shall handle no less than 1 percent of the total industry volume of avocados in the preceding marketing year.
3. Any handler elected to the Commission shall maintain his or her qualification during the entire term of office.

C. Disclosure of Affiliations

1. Any person nominated for a seat on the Commission shall submit to the Commission on a form provided by the Commission a Declaration disclosing all affiliations the nominee has within the avocado industry. The purpose of the disclosure is to insure that voters are fully informed of any such affiliations prior to the election of members and alternates to the Commission.
2. Persons elected to the Commission as members and alternates must submit an updated disclosure form to the Commission each time that person has a change of circumstances regarding their affiliations within the avocado industry. The updated disclosure must be submitted within 30 days of the change of circumstances.
3. For purposes of these election procedures, “affiliation” means any involvement with a producer or handler as an owner, director, officer, employee, representative, consultant, independent contractor, or other interest holder.
4. For purposes of these election procedures, a “change of circumstances” means any added or terminated affiliation, and any expanded or reduced affiliation by a Commission member or alternate.
5. Any person who claims to be aggrieved by misstatements or omissions in a Disclosure of Affiliations may petition the Commission for a hearing in accordance with established grievance procedures.

V. **Balloting**

- A. On or about July 15 of each year, the Commission shall mail nomination/petition forms which identify the available seats for the next election to all eligible growers and handlers.

B. The Commission shall set a date by which all nomination forms/petitions and other required documents must be postmarked or returned to the Commission. Said date shall not be later than 45 days from the date on which the nomination/petition forms were mailed.

C. The names of all eligible nominees will be placed on a ballot and mailed to all growers and handlers, as appropriate, approximately the last week of September of each year. The ballots shall make it clear that write-in candidates are permitted. However, if a write-in candidate wins the election, within 30 days, that person must verify eligibility and provide all disclosure forms, signed nomination petition and other required documents to the Commission prior to being seated.

D. The Commission shall set a date by which all ballots will be postmarked or received by the California Department of Food and Agriculture (“Department”). The deadline set for postmark or receipt of ballots at the Department shall occur during the last week of October of each year, but in no event shall the deadline be less than 20 days from the date ballots were mailed to growers and handlers.

E. The Department will count the ballots and send written notice of the results of the election to the Commission within 15 days after the close of the balloting period.

F. Upon conclusion of the balloting period, individuals receiving the highest number of votes within each district and/or affiliation shall be offered his or her choice of the available seats, with the individual receiving the second highest votes offered choice of the remaining seats, and so on, until all seats within each district and/or affiliation have been filled.

G. In the event of a tie for any available seat, there shall be a drawing of lots to determine who shall be offered first choice of available seats.

H. The Commission will announce the results of the election and seat new members and alternates at the next Board meeting after receiving the results from the Department.

## **VI. Term Limits**

A. Terms of office of each member shall be limited to four consecutive terms. Terms of office of each alternate shall be limited to four consecutive terms. However, if one or more partial terms occur (due to filling a vacancy or redistricting) consecutively with one or more full terms, the “four consecutive terms” shall be calculated (by example) as follows:

Member A serves a full term from November 1998 through October 2000, another full term from November 2000 through October 2002, then a partial term due to redistricting from November 2002 through October 2003. If elected again for the term beginning in November 2003, Member A will be starting his “third term” in November 2003 for purposes of term limits. He can then serve another full term from November 2005 through October 2007 before terming out of office.

B. Once an individual has served four consecutive terms as a member, he or she is not eligible to serve on the Commission as a member or alternate until at least one year has elapsed since the end of his or her last term. Once an individual has served four consecutive terms as an alternate he or she is not eligible to serve another term as an alternate until at least one year has elapsed. However, he or she is eligible for election as a member, and can serve another four consecutive terms as a member.

## **VII. Filling Vacant Seats on the Commission**

A. A vacancy of any seat, member or alternate, on the Commission shall be filled, by a qualified person, for the unexpired portion of the term, by a majority vote of the Commission. Per Section IV.A.(2).(e), a member who resigns from the Commission is not qualified to be re-seated by a majority vote of the Commission until at least one year has elapsed since the date of the member’s resignation.

B. Nominations for appointment to a vacant seat may be solicited by the Commission prior to the meeting at which the appointment will take place and from the floor at the meeting. All candidates for appointment to a vacant seat must meet the qualifications for that seat, and submit a qualification form, disclosure statement, and any other documents required by the Commission. Appointments to fill a vacant seat shall be conducted at a regularly scheduled Commission meeting as soon as practicable after the vacancy occurs.

C. Nominees for appointment to a vacant seat shall have the option to be present during any vote to fill vacant seats on the Commission. Such voting may not be conducted by secret ballot.