HIGH FEES DETER SCHOOL BOARD CANDIDATES

Summary

Candidates running for school boards in the 2004 general election in Santa Clara County (County) received an unpleasant surprise. The fee for placing a candidate's written statement of qualifications on the Sample Ballot had tripled. Aside from any campaign costs, this initial up-front filing fee for a 200-word written statement in the Sample Ballot could range from $1,100 to nearly $7,000. According to the Santa Clara County Registrar of Voters (ROV), this dramatic increase in candidates' fees was due to the federal mandate to publish such statements in as many as five different languages (English, Spanish, Vietnamese, Chinese, and Tagalog). Due to the County’s current budget crisis, the Board of Supervisors required ROV to recoup all costs associated with translating, typesetting, handling and printing of the candidates’ statements on the Sample Ballot. In effect, these costs were passed on to candidates. But at what cost to democracy?

Since local school boards are essential to our educational system in California and since elected board members receive a relatively small compensation, the 2004-2005 Santa Clara County Civil Grand Jury (Grand Jury) decided to investigate the impact of escalating fees on actual or potential school board candidates in the County.

The Grand Jury found the following:

- A large majority of school board candidates in the November 2, 2004 general election found the fee to place a written statement of qualifications on the Sample Ballot to be either a disincentive or a financial hardship;
- Candidates from the lowest income school districts often had to pay the highest fees;
- Candidates who did not file a written statement were perceived by the public in a less favorable light than those who did file a statement;
- Candidates for County offices, such as Board of Supervisors, Sheriff, Assessor or District Attorney, did not have to pay any fee for their written statements; and
- The cost for written statements had escalated due to the federal requirements for ROV to print ballots in as many as five different languages. ROV is innovatively and aggressively addressing the higher costs associated with multiple languages.
Background

VOTING RIGHTS ACT OF 1965

Following the landmark 1964 Civil Rights Act, the United States Congress passed the Voting Rights Act of 1965 (VRA) as a logical implementation of the Civil Rights Act and as a means to enforce the 15th Amendment of the U.S. Constitution guaranteeing civil rights and suffrage to all citizens. VRA outlawed any discriminatory voting practices (e.g., poll taxes or literacy tests) which would, in effect, disenfranchise a segment of the population. VRA has been extended/amended numerous times (for instance in 1970, 1975, 1982) to extend and expand the protections of the original VRA.

In 1992, Congress again amended VRA to include minority language assistance. According to Section 203 of VRA, a state or political subdivision such as the County must now provide language assistance to voters if more than 5% or more than 10,000 citizens of voting age are members of a single-language minority group.

Based on national census data, the U.S. Department of Justice determines which minority groups qualify for language assistance under this amendment. In Santa Clara County, based on the 1990 national census, this meant the inclusion of Spanish in all voting materials. Although not mandated by law, the County Board of Supervisors decided in 1993, as a gesture of inclusiveness, to extend language assistance to the Vietnamese and Chinese communities. According to the most recent 2000 census data, the County must now provide language assistance in Spanish, Chinese, Vietnamese, and Tagalog.

SAMPLE BALLOT

The November 2, 2004 Sample Ballot & Voter Information Pamphlet, as mandated by the California Elections Code, was mailed by ROV to all registered voters in Santa Clara County 20-40 days prior to the election. The Sample Ballot includes instructions for touch screen voting, marking paper ballots, applying for an absentee ballot, and location of the polling place. It lists city and county measures with arguments pro and con as well as statewide propositions. It officially lists all federal, state, city, county, judicial, special district, and school board candidates.

One of its most important functions is to allow local candidates to place a written statement of qualifications (Statement) to aid the voter in making an informed decision.
Discussion

REGISTRAR OF VOTERS

In Santa Clara County, the office that must implement VRA, as well as any other election laws, is that of the Registrar of Voters. For the November 2, 2004 General Election there were over 850,000 eligible voters in Santa Clara County. Due to the unique configuration of home precincts, ballot rotation requirements, the number of national, state, county, city, school board, and special district contests, and the minority population concentrations in various areas, ROV prepared 207 ballot types resulting in 651 different Sample Ballot variations that conformed to the multilingual requirements, as well as the particular contests in each voting area. In effect, every Sample Ballot was printed in one extra language besides English that was either requested by the voter or assumed to be the native language of that segment of the population. The ballot language breakdown is shown in Figure 1.

Fig. 1. Breakdown of Nov., 2004 Ballots Prepared by Language Combinations (Total = 651)

Due to the County’s current budget crisis, the Board of Supervisors required ROV to recoup all costs associated with the printing of the candidates’ statements on the Sample Ballot. These costs were passed on to candidates as a Statement fee.
STATEMENT FEE

ROV determines the Statement fee by analyzing the following costs: typesetting, translating, handling, printing, and the number of Sample Ballots needed in that candidate’s school district. These are normally up-front charges that must be paid by the candidate at the time of filing (except in very few cases where the district is paying the fee on behalf of the candidate). For example, the original cost to school board candidates in the East Side Union High School District was $6,870 for a 200-word Statement printed in almost 240,000 Sample Ballots with all of the above four language combinations.

In Santa Clara County, five school districts are located in more than one county. For example, candidates for the Los Gatos-Saratoga Joint Union High School District must pay a Statement fee to the Registrar of Voters in both Santa Clara County and Santa Cruz County.

It should be noted that, after the election, candidates may receive either a partial rebate or an additional charge when the actual ROV expenses are finalized. When ROV initially estimates the cost of preparing Statements in multiple languages, it conservatively assumes that only two candidates’ Statements (rather than the maximum of four per page) will be submitted. In the East Side Union High School District case cited above, each candidate eventually received a refund of $3,081. In fact, of the 16 school board races studied, candidates in 14 of those races received refunds averaging $663. Unfortunately, the amount of any refund is not determined or rebated until six months after the Statement fee deadline. Common sense would suggest that the higher the original cost, the more difficult it is for some candidates to either consider running for election or have sufficient financial resources to effectively wage a realistic campaign.

The Grand Jury decided to test that assumption through a candidate survey.

CANDIDATE SURVEY

For the purposes of this report, only contested elections for the boards of elementary, high school and unified school districts where the candidate had to pay a Statement fee were examined. A $100 token fee was paid by the candidates in Mountain View-Whisman School District. No fee was charged to candidates in Mt. Pleasant, Alum Rock Union and Loma Prieta Joint Union school districts because the districts paid this cost. Data from these school board races was not considered.

Consequently, the Grand Jury sent out a School Board Candidate Questionnaire (see Appendix A) to 74 candidates in contested races who had to pay a fee for a Statement on the ballot. Of these, 55% responded to the question: "How much of a disincentive or hardship was this fee?" The response is summarized in Figure 2.
Of the respondents, 38% indicated it was an extreme hardship while 81% thought it was either extreme or above average.

An overwhelming majority of candidates (82%) thought that other potential candidates were discouraged from running because of this fee. It might be added that a number of candidates simply opted not to pay the fee and to forego the Statement although they realized that such an omission could be detrimental in a contested race.

Some candidates commented that a preferable alternative would be that the school district either pay or share the cost. While this seems reasonable at first glance, it overlooks the fact that, according to ROV, school districts are already charged an election fee which can range from $1 to $10 per voter. East Side Union High School District, for instance, was charged $275,000 for the 2004 election.

Other candidate comments included such statements as: “I believe that the excessive cost of candidacy in our county is the number one discouragement or disincentive for running for our school board and other public office. It was made abundantly clear by the Registrar of Voters office that we could file for free and forgo the qualification statement. In our district, however, candidates have next to no chance of winning without a qualification statement… this is typical of most districts.” Another candidate wrote: “When I first ran for School Board in 1996, it cost me $600 to file a statement. The next election in 2000 it went to $800. This year is was $2,470, four times my original cost. If this were my first election, I would not have run.” An incumbent stated: “I paid the fee because I was an
incumbent. If I was not an incumbent, I may have chosen not to seek this office.” One candidate simply said: “Outrageous!”

Many candidates noted that the excessive cost could have been minimized if the number of languages were reduced. ROV has estimated that the cost of implementing the most recently mandated language increased the Sample Ballot cost by $200,000.

RELATION OF INCOME TO STATEMENT

VRA was passed by Congress to maximize minority participation in the political process. Yet the well-intentioned introduction of language assistance has unintentionally created a “catch 22” situation—handicapping at best, or eliminating at worst, potential school board candidates who do not have the financial resources to absorb such up-front costs. An analysis of the November 2004 school board races reveals that the candidate from a school district with a lower household income is less likely to pay for a Statement on the Sample Ballot.

Figure 3 shows that income has a direct influence on the likelihood of the candidate to place a Statement on the Sample Ballot. Intuitively, this may not be a surprise but the ramifications are immense. In order to get elected from a low-income district, the candidate must have sufficient personal resources or require financial assistance from an outside source to file a Statement. The outside source of money (special interest groups) may require certain quid pro quo favors in return for election assistance.

![Fig. 3 Percent of Candidates Filing Statement vs. Income Level of District](image-url)
Note: The graph in Figure 3 was prepared by the following method. The zip codes servicing each school district were determined. The income from each zip code was procured from U.S. census data of 2000, and the zip code incomes were averaged to assign an income for each school district. The districts were grouped together according to average income. Of the candidates who ran for a particular school district, the percentage who filed a Statement was plotted against the income group of that school district. (See Appendix C; column F is plotted against column C.)

In an effort to compare the cost of placing a Statement on the ballot for various school districts, it was observed that often the lower income school districts pay a higher amount. To display this, the cost of placing the Statement for each district was plotted against the average household income for that district. Each data point in Figure 4 below represents a school district, its income and the deposit to be paid to ROV to place a Statement on the Sample Ballot. A computer generated average line was then drawn through the data points to reveal the trend. (See Appendix D, column B is plotted against column H.)

![Fig. 4 Candidate’s Statement Fee vs Household Income of School District](image)

This graph shows an inverse relationship between candidate fees and the average income level of the district. Candidates from the lowest income districts are, on average, paying the most for their Statements (See Appendix D). One reason for this phenomenon is that the lower income school districts often have more multi-lingual voters than other districts. Another factor which can drive up the cost is the number of voters in a school district; the more voters, the higher printing and handling costs.

Unless there is a major change, the current system will continue to financially penalize well-meaning citizens who wish to serve their community by running for local school boards. The *status quo* is especially detrimental to candidates who are least able to pay
the increased fees and who reside in districts which have the highest number of voters as well as highest number of languages and hence the highest costs.

**VOTERS’ PERCEPTION**

There was much anecdotal feedback from candidates and the general public to suggest that voters have a negative perception of candidates who do not have a written Statement on the Sample Ballot. Consequently, the Grand Jury conducted a random survey of registered voters from every postal zip code using names furnished by ROV. The survey (see Appendix B) asked over 330 residents what conclusion they would draw if a candidate did not have a Statement. Twenty-five percent of those surveyed responded yielding the results shown in Figure 5.

![Voter Perception Graph](image)

**Fig. 5 Voter Perception: Reasons Why a Candidate Did Not File a Statement**

Sixty-seven percent of those replying thought that if a candidate did not file a Statement, it was because he/she "didn't care enough," while less than ten percent attributed it to “not wanting to pay the fee”. The likely reason for this response is that the electorate is not aware that the average cost for a Statement is more than $2,400.

Some candidates may truly desire to serve their community, but cannot afford to pay this large fee in order to run. The absence of a Statement should not imply a candidate’s lack of interest or qualifications for the position.
OTHER COUNTY OFFICES

Candidates running for other County offices such as Board of Supervisors, Sheriff, Assessor or District Attorney, unlike school board or special district candidates, pay a candidate filing fee of one percent of the starting annual salary of that office. However, they do not have to pay for a Statement on the Sample Ballot. This exemption was approved by the voters as an amendment to the County Charter (see Santa Clara County Charter, Section 202; amended and ratified by the voters June 2, 1992). This exemption for candidates for the above County offices, according to ROV estimates, costs the County’s General Fund approximately $90,000 per election.

Under the County Charter, certain elected officials earning relatively high salaries do not have to pay a ballot statement fee, whereas school board candidates receiving much lower salaries must pay a substantial ballot statement fee. This raises concern about whether it is equitable to charge some candidates for ballot statement fees and exempt others. For example, a Supervisor, whose starting annual salary is $115,070, must pay a one percent filing fee of $1,150, but no Statement fee. However, a school board candidate in Fremont Union High School District, who receives an annual compensation of $2,800 pays no filing fee, but must pay $4,000 in advance as a Statement deposit.

The average school board candidate’s Statement deposit is $2,429. This is more than 70% of the average annual compensation received by school board members.

STATE/NATIONAL OFFICES

Citizens running for state legislative office pay both a filing fee (two percent of annual starting salary) and a Statement fee which ranges from a low of $2,470 in the 20th Assembly District to a high of $9,950 in the 13th State Senate District depending on the number of voters in the district. Candidates for national offices, e.g., United States Senate or House of Representatives, do not have a Statement on the Sample Ballot.

POSSIBLE SOLUTIONS

The school districts could share the cost of the Statement with the candidates. However, the current high Statement cost and district budget constraints make this solution increasingly unrealistic at this time.

Another solution would be to impose a reasonable flat fee of $500 (suggested by some candidates and actually done in San Francisco County) and to recoup any revenue loss through other creative means. This fee is significant enough to limit places on the ballot to only serious candidates.

Often some places for Statements in the Sample Ballot are left blank. These spaces could display both a fee disclaimer for those unable or unwilling to pay and a reference to the League of Women Voters website, www.smartvoter.org, to mitigate the negative
perception of candidates who do not pay Statement fees. In addition, this would serve to educate the public about the existence of the required Statement fees.

Currently no candidates’ Statements are posted on the ROV website. However ROV does provide, besides much other useful information in multiple languages, a link to the League of Women Voters website as listed above. This site offers candidates’ information in English along with a picture without any charge. Of the voters polled, 70% indicated they would go to a website to obtain candidate information. This website should be encouraged by ROV by making the icon link more prominent on the ROV home page instead of placing it at the very bottom of the "Candidate's Profiles" screen.

To its credit, ROV has embarked on a year-long campaign to inject common sense into the problem and possibly reduce the costs caused by multiple languages. In the November 2004 election, each voter was asked their "language of preference." For those who did not vote, a postcard was mailed with the same question. By Summer 2005, each voter will have been assigned a language preference. Beginning in Fall 2005, the official title of the Sample Ballot will be changed to "Voter Language Preference Sample Ballot & Voter Information Pamphlet". At that point all voting materials will be sent out in English only to every voter. Shortly thereafter, this will be followed up with a mailing in the voter’s language of preference if a language other than English is requested.

ROV estimates that the paper conserved and savings in postage for the Sample Ballot will more than cover the cost of the second mailing to those whose language of preference is other than English. Indeed, early studies indicate that the assumptions are correct as 94.7% of the 395,000 registered voters responding to date have indicated that their language of preference is English. ROV believes the savings achieved by implementing this program will run into tens of thousands of dollars in the near term and millions in the long term.

ROV deserves high marks for innovatively and aggressively addressing the higher costs associated with multiple languages.

**Conclusion**

The Voting Rights Act of 1965 was written to enfranchise all potential voters. While the multiple language requirement was federally legislated with the best of intentions, it has had the unintended consequence in Santa Clara County of discouraging or, in some cases, even eliminating, low-income or minority candidates from running in school board elections. Such candidates are least able to financially cope with the increased costs of multiple languages whereas other county office candidates are exempt from this expense. The purpose of VRA was not just to empower minority voters, but also to encourage minority candidates and minority elected officials. The cost of taking part in democracy in our diverse society should not be unfairly borne by those least able to pay.
FINDING 1

The fee charged by ROV for a school board candidate's Statement on the Sample Ballot is a financial hardship, and, in some cases, a disincentive for potential candidates to run.

RECOMMENDATION 1A

The Board of Supervisors should review its current policy of mandating that ROV recoup all costs from the school board candidates. Recouping the total costs of publishing candidates' Statements in the Sample Ballot should not be the primary criterion for determining fees. The Board, in conjunction with ROV, should investigate more creative solutions such as a flat fee or a fee based on a reasonable percentage of school board compensation.

RECOMMENDATION 1B

ROV should make its pre-election estimate of candidates' fees based on four candidates per page instead of two.

FINDING 2

School board candidates from the lowest income districts often had to pay the highest fees for placing a Statement on the ballot.

RECOMMENDATION 2

See Recommendation 1A.

FINDING 3

Many in the general public have a negative perception of those school board candidates who do not publish a Statement in the Sample Ballot. In addition, the public is often not aware that a large fee is involved.

RECOMMENDATION 3A

In lieu of a candidate’s Statement, the Sample Ballot should contain a generic notice that the candidate declined to pay the fee necessary for publication of the Statement and refer the reader to the League of Women Voters website, www.smartvoter.org.
RECOMMENDATION 3B

ROV should modify its webpage to refer the voter to the League of Women Voters website at www.smartvoter.org for further information on candidates. An effective way to accomplish this would be to place the link to www.smartvoter.org in a more prominent position on the ROV website instead of at the bottom of the "Candidate Profiles" page.

FINDING 4

School board candidates pay a disproportionate share for their Statement (on average over 50% of any annual compensation) while other elected County officials, such as Board of Supervisors, Sheriff, District Attorney and Assessor are exempt from this Statement fee and only pay one percent of their starting annual compensation as a filing fee. This exemption is based on the current voter-approved County Charter.

RECOMMENDATION 4

At the time of future Charter review, the fee exemption provision should be reviewed to determine if a change should be recommended to either remove the existing exemptions or to add exemptions for other offices.

FINDING 5

The cost for a Statement has escalated due to the federal requirement for ROV to print ballots in as many as five different languages. The Grand Jury notes that ROV is innovatively and aggressively addressing the higher costs associated with multiple languages.

RECOMMENDATION 5

ROV, based on its Voter Language Survey, should continue to explore its legal options to reduce printing/translation/mailing costs while still meeting federal requirements.
PASSED and ADOPTED by the Santa Clara County Civil Grand Jury on this 7th day of April, 2005.

Michael A. Smith
Foreperson
References

Documents

2. Candidate's Statement of Qualifications, Cost and Guidelines, State Legislative Offices
5. Cost of Candidate Statements, Santa Clara County Registrar of Voters, 9 Feb. 2005
8. Schedule 1A - Cost of Candidate Statement, November 2004 Presidential General Election, 22 Nov. 2004
9. California Government Code, Sections 85600-85601
10. California Government Code, Sections 85400-85403
11. California Elections Code, Sections 13300-13317
12. California Elections Code, Sections 8100-8107
13. Santa Clara County Charter, Section 202
14. California Education Code, Sections 35120-35124
17. San Jose Mercury News Editorial, School Board Candidates Need a Break on Fees, 2 Aug. 2004
Interviews

1. Assistant Registrar of Voters and Election Division Coordinator, Personal Interview, 6 Dec. 2004
3. Member, Board of Supervisors, Personal Interview, 31 Jan. 2005
4. 2004 School Board Candidate, Personal Interview, 8 Feb. 2005
5. Registrar of Voters, Assistant Registrar of Voters and Election Division Coordinator, Personal Interview, 9 Feb. 2005

Correspondence

1. Election Division Coordinator, ROV, Number of candidates not placing statement on ballot, e-mail, 8 Dec. 2004
2. Election Division Coordinator, ROV, Filing fees for offices, e-mail, 7 Feb. 2005
3. Election Division Coordinator, ROV, IKON DocSend files, e-mail, 8 Feb. 2005
4. Assistant ROV, Cost per page of ballot, e-mail, 18 Feb. 2005
5. Assistant ROV, District cost per voter, e-mail, 18 Feb. 2005
6. Chief of Staff of Board of Supervisors member, Annual salary, e-mail, 18 Feb. 2005
7. Assistant ROV, Ballot name placement and rotation, e-mail, 23 Feb. 2005
Appendix A

2004-2005 Santa Clara County Civil Grand Jury
School Board Candidate Questionnaire

1. Name of school district:______________________________________________________

Election year: 2004 _____ 2002 _____ 2000 _____

2. Did you file a written qualification statement? Yes ☐ No ☐

If yes, the cost $_____________

What was the approximate cost of your entire campaign? $____________________

3. How much of a disincentive or hardship was this fee?

   Extreme ☐ Above Average ☐ Average ☐ None ☐

4. Do you think other potential candidates were discouraged from running because of this fee?

   Yes ☐ No ☐

Do you personally know any such candidates?

   Yes ☐ No ☐

5. If you feel this fee is a disincentive, do you have any opinions/suggestions on how it might be paid or eliminated?

   Yes ☐ No ☐

If Yes, please explain: _______________________________________________________

6. Would you be willing to be personally interviewed by a Grand Jury member on this subject?

   Yes ☐ No ☐

If Yes, daytime phone number: ________________________________

Do you have any other comments or concerns? (Please use a separate sheet of paper or the back of this page).

Your Name: ___________________________________ Date: ____________________
Appendix B

Dear Registered Voter:

The 2004-2005 Civil Grand Jury, Santa Clara County’s government oversight body, is interested in public attitudes regarding the election process Sample Ballots. We would be most appreciative if you would take a minute to complete the survey below and return it in the envelope provided. Your response will help us understand voter habits.

Thank you very much.

Sincerely,

MICHAEL A. SMITH
Foreperson
2004-2005 Civil Grand Jury

1. Did you vote in the November 2004 election? _____Yes _____No

2. Did you read any part of the Sample Ballot? _____Yes _____No

If you answered Yes, did you find any of the Candidates’ Statements (describing their qualifications) helpful in deciding for whom to vote? _____Yes _____No

3. What conclusion(s) would you draw if a candidate did not have a written statement in the Sample Ballot?

_____ Candidate did not have time to write one?
_____ Candidate did not care enough to write one?
_____ Candidate did not want to pay the fee?
_____ Was the result of an administrative error by the Registrar of Voters?
_____ Other (please specify) _____________________________________________________

4. If you wanted to know more about a candidate’s qualifications, would you be willing to go to a website to read the candidate’s written statement? _____Yes _____No

5. Do you have any comments on the election process? (Please use the reverse side if needed.)
Appendix C
Income of School Districts and Percentage of Candidates Who Filed

<table>
<thead>
<tr>
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</tr>
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<td>95112, 95116, 95133</td>
<td>$52,590</td>
<td>2</td>
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<td>50%</td>
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<td>Luther Burbank S.D.</td>
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<td>$52,991</td>
<td>4</td>
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<td>$59,052</td>
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<td>$64,611</td>
<td>6</td>
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<td>$71,393</td>
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<td>0%</td>
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<td>East Side UHSD</td>
<td>95035, 95110, 95111, 95112, 95116, 95119, 95121, 95122, 95123, 95127, 95131, 95132, 95133, 95135, 95136, 95138, 95148</td>
<td>$73,278</td>
<td>7</td>
<td>5</td>
<td>71%</td>
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<td>Moreland S.D.</td>
<td>95008, 95130, 95129</td>
<td>$73,699</td>
<td>5</td>
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<td>80%</td>
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<td>Berryessa Union S.D.</td>
<td>95131, 95132, 95133</td>
<td>$79,493</td>
<td>3</td>
<td>3</td>
<td>100%</td>
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<td>Oak Grove S.D.</td>
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<td>$81,559</td>
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<td>95008, 95118, 95124, 95125, 95120, 95129, 95131, 95132, 95133, 95135, 95136, 95138, 95148</td>
<td>$82,716</td>
<td>6</td>
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<td>95035</td>
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<td>$85,306</td>
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<td>$109,368</td>
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<td>$115,136</td>
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<td>4</td>
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<td>C</td>
<td>D</td>
<td>E</td>
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<td>Original Deposit by Candidate due ROV</td>
<td>Final Cost to Candidate due ROV</td>
<td>Refund from ROV</td>
<td>Monthly Stipend (2003/4 Data)</td>
<td>Annual Stipend</td>
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<td>$240</td>
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