

MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: October 28, 2022

RE: **COMPLIANCE REVIEW COMMISSION (CRC) DECISION RELATING TO A CHALLENGE FILED BY KEV ABAZAJIAN**

INTRODUCTION:

On May 3, 2022, Kev Abazajian, Araz Parseghian and Armond Aghakhanian submitted a challenge relating to the actions of the Democratic Party of Orange County (DPOC). The Challenge alleges that the DPOC Resolutions Committee violated Article XIII, Section 1 of the CDP Bylaws relating to the open meeting rule at their May 2, 2022 meeting. The challengers claim that each of the following sponsors of the resolution -- Araz Parseghian, Armond Aghakhanian and Nishan Dulgerian -- were not allowed to attend the May 2nd meeting held on Zoom nor to testify in support thereof. They were instead prompted with the question, "are you a registered Democrat" while in the waiting room. They were unable to respond due to the limited functions.

Mr. Abazajian, an associate member of the DPOC further claims that he attempted to remedy the issue with a point of order, but was not recognized by the Resolutions Committee Chair, Ken Wyant.

The challengers are requesting the DPOC to reschedule the Resolutions Committee meeting as soon as possible, while following the open meeting rule.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

Documents received and reviewed by the CRC associated with the challenge included the following:

Challenge submitted by Kev Abazajian on May 3, 2022.

Exhibit 1 Screenshot of Waiting Room Chat Question

Exhibit 2 Resolutions Committee Agenda

Exhibit 3 Resolution

TIMELINESS:

According to CDP Bylaws, Article XII, Section 4:

“All challenges must be commenced by the filing of a written challenge with the Secretary of This Committee, with copies served on the Chair of This Committee, as well as the appointing person, and the chair of the relevant organization, where applicable no later than seven (7) calendar days after the alleged violation occurred. Upon a showing of good cause, sustained by unanimous vote, the Compliance Review Commission may waive this requirement.”

(All By-Law references are to the California Democratic Party Bylaws, as amended through February 2022, unless otherwise indicated.)

Mr. Abazajian submitted a challenge on May 3, 2022, for an incident that took place on May 2, 2022. The submission was within 7 days of the DPOC meeting on May 2, 2022, and, thus, the challenge was timely.

STANDING:

According to Article XII, Section 3:

“Any party to a challenge must be adversely affected to bring the challenge.”

Inasmuch as the challenger failed to prove that remedies within the County Committee were exhausted and the CRC found that there is no jurisdiction of one of the alleged violations, the CRC did not find it necessary to address the issue of standing.

JURISDICTION:

Article XII, Section 2 states:

“The Compliance Review Commission shall have initial jurisdiction over all challenges and/or appeals arising under these Bylaws.”

Further, the CRC Procedural Rules, Section 2, B. 2. state in pertinent part that a challenge must,

“Explain[] the basis of CRC’s jurisdiction... If the CRC cannot discern the section of the CDP Bylaws alleged to have been violated or which grants jurisdiction to the CRC, it may dismiss the challenge.”

The challenge alleges two violations. The first is that the DPOC violated the open meetings rule in Article XIII, Section 1 of the CDP Bylaws, which states,

Section 1. PUBLIC MEETINGS

All public meetings at all levels of the Democratic Party shall be open to all members of the Democratic Party regardless of race, color, creed, national origin, sex, age, religion, caste, ethnic identity, sexual orientation, gender identity, persons with disabilities as defined by the Americans with Disabilities Act of 1990 or economic status. Further, the scheduling and location of public meetings and other public affairs of the Democratic Party at all levels must take into account the ability to fully and fairly participate with reasonable accommodations, where appropriate, of persons with disabilities as defined in the Americans with Disabilities Act of 1990. The scheduling and location of such public meetings and other public affairs must also take into account the ability to fully and fairly participate with reasonable accommodations, where appropriate, of any religious minorities of significant numbers of concentration whose level of participation would be affected

This facially raises a basis for jurisdiction, but also raises complex issues of whether the CRC should assert jurisdiction over violations of the CDP Bylaws that don’t directly affect the County Committee’s representation on the CDP State Central Committee or Executive Board or, in the case of a County Committee whose endorsements are deemed to be the CDP’s endorsements, directly affect the endorsement process. Because the challengers failed to prove that they exhausted their remedies within the County Committee, the CRC declined to resolve the question of jurisdiction with respect to this alleged violation.

The second alleged violation has to do with the deprivation by the DPOC of the sponsors of the opportunity to address the Resolutions Committee. The challengers cite no basis for jurisdiction over this allegation and the CRC could discern none. Accordingly, the CRC finds no jurisdiction over this allegation.

Exhaustion of Remedies

Under Section 3.C of the CRC Procedural Rules, a challenger challenging the action of a County Committee must exhaust local remedies. It provides,

C. Subordinate bodies must be allowed to carry out their functions without undue interference and be given an opportunity to correct their own errors. Accordingly,

Proponent(s) of a challenge must indicate what local remedies they understand are available and that they have either exhausted those local remedies, or can demonstrate that they are inadequate or futile. In evaluating whether a claim is properly before it, the CRC must determine that the Proponents of a challenge have exhausted all local remedies, (e.g., Appealing the Ruling of the Chair), where remedies exist and are appropriate, unless the CRC further determines that:

1. Based on the evidence presented, such remedies are inadequate, or

2. Requiring Exhaustion of Remedies would be:

a. Unduly burdensome,

b. Prejudicial, or cause unwarranted delay,

c. Futile, and/or

d. Counter to the interests of justice.

It appears from the investigatory record that no effort was made to raise these issues before the entire County Committee and that the effort to raise the issue in the Resolutions Committee only related to the failure to allow the sponsors of the resolution to speak, a matter over which the CRC has no jurisdiction. Given that it is the challenger's burden of proving that local remedies were exhausted or excused, the CRC finds that the challenger failed to meet its burden and finds that local remedies were not exhausted.

FINDINGS:

As noted above, Mr. Abazajian failed to demonstrate jurisdiction of one the alleged violations and failed to prove that local remedies as to the other alleged violation were exhausted and, as a result, the challenge should be, and hereby is, dismissed.

Notwithstanding the dismissal of the challenge, the CRC notes that the DPOC appears to have deprived registered Democrats of the opportunity to attend a meeting of the DPOC's Resolutions Committee. This failure deprived registered Democrats of the right to observe the operations of our Party and to participate in its proceedings, including by attending its meetings. The openness of our Party and the transparency of its proceedings is a cornerstone of our Party's operating principles and is an indispensable ingredient in developing the trust that our Party seeks to establish with its voters. Failure to follow the rules related to open meetings is a serious matter. Given the gravity of the issue, the CRC calls upon the DPOC to review its operating procedures and to take concrete steps to assure that its meetings are open to all Democrats in accordance with Article XIII, Section 1 of the CDP Bylaws.

ORDER:

Based upon the above facts and the Bylaws of the CDP, the CRC makes the following Findings and Orders:

The CRC denies the challenge and has voted to dismiss due to failure to exhaust local remedies.

Appeal of this order, if any, must be filed with the CDP Secretary, with copies to the Chair of the CDP State Central Committee, within twelve days of the date of this decision. Thus, any appeal must be filed on or before November 9, 2022 with the Sacramento office of the California Democratic Party, and shall be an appeal to the next meeting of CDP Rules Committee upon conclusion of the response period.

Please note that per CDP Bylaws, Article XII, Section 2e, the filing of an appeal shall not stay any decision of the CRC. Parties may additionally respond in person or virtually, depending on how the meeting is being conducted, if so desired, provided there has been a timely filing of an appeal and notice of intent to testify is provided in writing to the Lead Chair of the Rules Committee by 5 PM on Monday, November 9, 2022, at the Sacramento office of the California Democratic Party. The Rules Committee may accept such additional testimony, written or oral, considering the nature and import thereof, as well as the time available for its proper consideration, as it deems appropriate, in its discretion.

Accordingly, this decision is so ordered, and is in effect, unless, and until, a successful appeal is made, decided, and contrary orders made whether by the CRC, or by the Rules Committee. CRC shall retain jurisdiction up until the time of an appeal, if any, is heard by the Rules Committee.

Respectfully submitted by a 6-0 vote of the members of the CRC,

Tim Allison, Co-Chair, Credentials Committee
Nicole Fernandez, Co-Chair, Rules Committee
Valeria Hernandez, Co-Lead Chair, Rules Committee
Lara Larramendi, Co-Lead Chair, Credentials Committee
Paul Seo, Co-Chair, Credentials Committee
Laurence Zakson, Co-Chair, Rules Committee