

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 RUTH MUSSER-LOPEZ**

INTRODUCTION:

On August 25, 2021, Ms. Ruth Musser-Lopez filed a challenge relating to the Tulare County Democratic Central Committee (TCDCC) for acting in a manner detrimental to the party. The challenge named Suzanna Aguilera-Marrero (SAM), in her capacity of Chair of TCDCC, Brock Neeley in his capacity of TCDCC Parliamentarian and Susanne Gundy in her capacity of TCDCC, Member at large. The challenger alleges that, on August 18, 2021 the above parties acted on a proposed bylaw amendment to change the procedures for designating Assembly District Representatives from Chartered Clubs and Organizations in the pre-endorsement phase of the California Democratic Party's endorsement process.

Ms. Musser-Lopez claims that Chair SAM violated the TCDCC bylaws by failing to allow for debate of the proposed amendment in violation of Robert's Rules of Order. In particular, Ms. Musser-Lopez contends that she was prohibited from testifying. Ms. Musser-Lopez further alleges that the statements of Mr. Neeley in support of the proposed bylaws change were misleading, and that Ms. Gundy violated CDP Code of Conduct by calling TCDCC Secretary Alex Gutierrez an asshole after he voted "No" against the proposal.

The Challenger requests that the CRC:

1. Admonish the above-named participants in the TCDCC meeting for their role in acting detrimental to the interest of the California Democratic Party.
2. Encourage the TCDCC Chair to notify TCDCC chartered Clubs of their right and privilege to elect Club Representatives to participate in the CDP pre-endorsement process and to provide clubs with a copy of the procedures laid out in the CDP Bylaws.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

Challenge submitted by Ruth Musser-Lopez on August 25, 2021.
Exhibit A – Proposed Bylaw change

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 January 2021, unless otherwise indicated.)

Ms. Musser-Lopez submitted a challenge on August 25, 2021 for an incident that took place on August 18, 2021. The submission was within 7 days of the TCDCC meeting on August 18, 2021, 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.”

Although it noted that the basis for the claim of standing was not clear, the CRC did not reach the issue of standing in as much as it found that it lacked jurisdiction over the challenge.

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.”

Inasmuch as the proposed bylaws amendment failed and there was no allegation that it was enforced despite having failed, the challenger did not provide a basis for jurisdiction in the challenge and the CRC cannot discern one. This is an inherently fatal deficiency and not merely a formal defect in the challenge document. Accordingly, no opportunity to cure is warranted.

FINDINGS:

As noted above, the challenge submitted by Ms. Musser-Lopez failed to provide any basis for jurisdiction and the CRC could not discern one.

As the CRC has explained in many previous decisions, the CRC is not a general appellate body for county committees, which under state and federal law are separate legal entities from the CDP. Moreover, as a general rule, it is not the business of the CDP or the CRC to police the statements of participants in a debate, particularly the debate of a county committee.

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 it is hereby dismissed due to the lack of jurisdiction.

Inasmuch as Ms. Musser-Lopez has been found to have filed, in the previous four years, a series of at least three frivolous or vexatious claims, her claims are hereby deemed subject to Section 5.D.5 of the Procedural rules, which allow the dismissal, without seeking testimony from the challenged parties, of any challenge determined not to have a likelihood of success filed by a proponent who has failed to prevail.

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