

MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: October 5, 2022

RE: **COMPLIANCE REVIEW COMMISSION (CRC) DECISION RELATING TO A CHALLENGE FILED BY RUTH MUSSER-LOPEZ**

INTRODUCTION:

On June 23, 2021, Ruth Musser-Lopez filed a challenge including an erratum to the challenge relating to the actions of the Tulare County Democratic Central Committee (TCDCC) on June 17, 2021. The challenge alleged that, when filling two regular member vacancies, the TCDCC violated Article II, Section 13 of its Bylaws by incorrectly disqualifying two alternates (Angelica Velazquez and Beverly Perez-Alvarez) from nomination and depriving them of the opportunity to engage in the election as nominees. The challenger claims that TCDCC Chair, Suzanna Aguilera-Marrero's decision to postpone the May 20th regular meeting to May 27th and to exclude the election from the meeting's agenda suppressed attendance. The challenger alleges that Alberto Aguilar, TCDCC Bylaws Chair, waived the bylaw requirement (Article II, Section 13) that elections are to be held "at the next regular meeting after the meeting during which nominations for vacancies take place" on the grounds of past practices. Challenger claims that nominations were taken and elections were held during the rescheduled May 27th meeting. Further claiming that the Chair wrongfully disqualified two appointed alternates, Angelica Velazquez and Beverly Perez-Alvarez, who had previously expressed interest in self nominating for the position. Challenger claims that both alternates were disqualified as they would have to withdraw their appointments in order to accept a position, per Region 9 Regional Director Diana Love and Alberto Aguilar. Challenger alleges that her June 17th motion to invalidate the May 27th election was overruled by the Chair, who silenced her point of order by muting her and later disconnecting her from the Zoom meeting.

The Challenger requests that the CRC finds that: 1. A violation of TCDCC's bylaws occurred in holding an election at the same meeting the nominations took place. 2. The TCDCC failed to notify members of an election. And 3. That Alternates were wrongfully denied the right to be nominated and run for a committee membership position without first resigning their Alternate positions.

The challenger calls for the:

1. Admonishment of Suzanna Aguilera-Marrero in Her capacity as TCDCC Chair for holding an unlawful election in violation of the TCDCC Bylaws
2. Admonishment of Diana Love in her capacity of Region 9 Director, for consenting and not objecting to the wrong interpretation of nominations

3. Admonishment of Alberto Aguilar in his capacity of TCDCC bylaws Chair and Susanna Gundy in her capacity of TCDCC Member At Large for not upholding the TCDCC bylaws
4. Lastly, the Challenger requests the nullification of the May 27, 2021 election, because her request at the June 17, 2021 meeting was overruled by SAM, the TCDCC Chair.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

1. Challenge submitted by Ruth Musser-Lopez on June 21, 2021. Includes Exhibits 1-7.
2. Memorandum of Erratum by challenger Ruth-Musser-Lopez dated June 27, 2021
3. Response opposing the challenge submitted Diana Love, Regional Director (Region 9), Suzanna Aguilera-Marrero, Chair of the (TCDCC), and Alberto Aguilar, Edith La Vonne and Brock Neeley,
4. 5. Testimony supporting the challenge submitted by Alex Gutierrez, TCDCC Secretary and Angelica Velazquez

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 June 21, 2021 for an incident that took place on June 17, 2021. The submission was within 7 days of the TCDCC meeting on June 17, 2021, 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.”

Standing did not have to be reached as there was no jurisdiction found in this 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.”

The CRC did not find jurisdiction in this challenge and the challenger did not provide a basis for jurisdiction in the challenge.

FINDINGS:

As noted above, the challenge submitted by Ms. Musser-Lopez failed to provide any basis for jurisdiction and the CRC could not discern any section of the CDP bylaws to have been violated according to the challenge.

However, the CRC would like to note that there was no mention of a violation against the CDP Bylaws in the 5 page challenge submission, but a violation of the CDP Bylaws Article XII, Section 2a (Jurisdiction) of the CRC and Conduct Commission was noted in a cover letter submitted with the Challenge. Claiming; that two individuals were wrongfully elected to the TCDCC on May 27, 2021 at an unlawful election. Further claiming jurisdiction under CDP Bylaws Article X, Section 3a covering Charters. Explaining CDP’s right to deny or revoke charters of any organization for cause by majority vote.

1. As to the Challenger’s claim that the TCDCC violated CDP Bylaws Article XII (Compliance Review and Conduct Commission). This article merely establishes the CRC and says that the CRC has jurisdiction over all Bylaws, except those directly related to the Conduct Commission. Citing this clause does not discern jurisdiction for a challenge submission.

2. As to the Challenger’s claim the TCDCC violated Article X, Section 3a covering Charters. CRC notes that this section is completely inapplicable to Central Committees as they are not Chartered Organizations but are separate legal entities.

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. While there are exceptions to this rule, in general, the CDP (through the CRC) will not intervene in the business of a county committee unless the actions being complained about 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. The most common exception to the rule in the previous paragraph is where the actions complained about seriously violate Article XIII (Notice). In this case, while

complaints were submitted regarding the postponement; it appears that the postponement was properly noticed. The evidence is clear that the postponement was justified and the new date was properly noticed.

ORDER:

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

- 1) The CRC denies the challenge as no jurisdiction was found.

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 October 17, 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, October 17, 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 5-0 vote of the members of the CRC,

Tim Allison, Co-Chair, Credentials Committee

Kathy Bowler, Co-Lead Chair, Rules Committee

Nicole Fernandez, Co-Chair, Rules Committee

Coby King, Co-Chair, Rules Committee, and Co-Chair of the CRC

Lara Larramendi, Co-Lead Chair, Credentials Committee, and Co-Chair of the CRC