

MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: July 31, 2024

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

INTRODUCTION:

On June 7, 2024, Michael James Luellen, an Imperial County Democratic Central Committee (ICDCC) member and candidate, filed a challenge regarding the ICDCC election and his race for ICDCC Chair.

The challenge alleges that the extremely close result of the election is attributable to deficiencies in the notice to ICDCC members, including the failure to notice ex-officio members. According to Mr. Luellen, the meeting notice and proposed agenda were emailed to regular members with only three days' notice instead of the required seven days for regular meetings or five days for special meetings. Additionally, the notice and agenda were not posted publicly on the official ICDCC website, and the notice and agenda were not sent via email or otherwise to the ex-officio voting members of the ICDCC.

The violations alleged in this challenge occurred in connection with a regular meeting of ICDCC on June 3, 2024. The final result was 6 in favor of the challenger, and 7 in favor of Diahna Garcia-Ruiz, who was declared the winner and assumed office immediately.

In an exhibit submitted by the challenger, the challenge further alleges that none of the voting members of the committee, except himself, were eligible to participate due to the failure of the voters to pay their membership dues and/or submit a request for a dues waiver.

Challenger Luellen requested the following:

1. Find and declare the June 3, 2024 meeting of the ICDCC and election result null and void.
2. Order a new, properly-noticed meeting to elect ICDCC officers to be held at the next regularly scheduled meeting.
3. Order that any members wishing to vote in the re-done ICDCC officer elections to pay or waive any dues imposed by the ICDCC bylaws prior to the start of voting.
4. Order that the ICDCC, and all members and officers, be restored to their respective statuses held as of 6/3/2024, as if the voided meeting had not occurred.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

1. Challenge submitted by Imperial County Democratic Central Committee (ICDCC) Interim Chair and Candidate, Michael James Luellen, on June 17, 2024, and 5 supporting documents
 - a. Exhibit A – June 3, 2024 ICDCC Meeting Agenda as circulated
 - b. Exhibit B – 2023 ICDCC Membership Dues List
 - c. Exhibit C – 2024 ICDCC Membership Dues List
 - d. Exhibit D – ICDCC Roster of Voting Regular Members
 - e. Exhibit E – Roll Call Vote for Chair Election
2. Testimony submitted by Diahna Garcia, Georgia Patricia Ureña, Co-Treasurer and Maria Peinado, Co-Treasurer in opposition of the challenge.
3. Testimony in support of the challenge was not submitted.

TIMELINESS:

According to CDP Bylaws, Article XII, Section 2:

“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 August 2023, unless otherwise indicated.)

Mr. Luellen originally submitted a challenge June 7, 2024. On June 12, 2024 CDP Staff requested that the challenger resubmit the challenge within 5 days in proper format as it did not adhere to the challenge submission requirements. On June 17, 2024, CDP Staff received their updated challenge.

The Challenger filed the original challenge within 7 days of the incident, and, thus, the challenge was timely. The reformatted challenge was submitted within the time period requested by staff.

JURISDICTION AND EXHAUSTION:

Article XII, Section 2.a(1) of the CDP Bylaws 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. 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.”

CRC Procedural Rules, Section 3. state

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.

This matter should properly be regarded as a challenge. But inasmuch as this is a local matter in which the challenger has failed to exhaust local administrative remedies, the CRC should not exercise jurisdiction over this matter at this time.

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. The challenger must first attempt to obtain relief at the county committee level and if that is unsuccessful or some other exception is applicable, the CRC will exercise jurisdiction. The challenger does not explain why his failure to raise the issue at the county committee level should be excused. Accordingly, the exercise of jurisdiction is inappropriate here.

STANDING:

According to Article XII, Section 3:

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

Although the question of standing did not have to be reached as the challenger failed to exhaust local administrative remedies.

The CRC, found Mr. Luellen to be a member of the Imperial County Democratic Central Committee (ICDCC) and candidate of in the officer election held at the June 3rd monthly

meeting to elect officers; thus. the CRC finds that he has standing as he was adversely affected.

FINDINGS:

As the CRC has explained in many previous decisions, the CRC does not have plenary jurisdiction over actions of county central committees, which under state and federal law are independent and 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 activities of a County Central Committee.

The challenge is deficient in many respects. First, the challenger does not explain why he failed to raise his objections at the county committee level nor why that failure should be excused. Second, the challenger's role in the conduct leading to the deficiencies or errors about which he is complaining makes it inappropriate to allow him to benefit from his own failure to discharge his duties.

The challenger alleged; that the notice and proposed agenda for the meeting was emailed to all regular members on 5/31/2024 at 5:30 PM, thereby providing only three days' notice, instead of the seven days for regular meetings.

The CRC found that the Challenger was the sender of said late notice and failed to give proper notice as the Chair of ICDCC.

The challenger alleged; that the notice and proposed agenda for the meeting was not posted publicly on the official website of the ICDCC as provided for by Article 4, Section 8(c) of the ICDCC bylaws.

The CRC found that the challenger failed to publicize said notice and agenda as the Chair of ICDCC.

The challenger alleged; that the notice and proposed agenda for the meeting was not sent via email or otherwise to the ex-officio voting members of the ICDCC: Rep. Raul Ruiz, Asm. Eduardo Garcia, Sen. Steve Padilla, and the highest Democratic vote-getter for the AD36 primary Joey Acuña.

The CRC found that the challenger failed to email or post proper notice as he was the Chair of ICDCC.

The challenger alleged; that no member except the challenger paid dues nor requested a waiver or payment plan in 2024. Accordingly, there were no eligible voters for the officer elections, except for the challenger. The co-treasurer of the ICDCC indicated that the challenger gave out information that reasonably could be construed as indicating that dues payments for 2024 should be made at the beginning of the year.

The CRC found that the challenger was responsible for the confusion/misinformation, and the lack of notice about the dues payment obligation.

In these circumstances, while a request for re-run of the election on the grounds alleged might have merit, this particular challenger's challenge should be denied because he failed

to exhaust his local remedies and was principally responsible for the deficiencies he is now challenging.

ORDER:

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

The challenge is dismissed for lack of conclusive evidence of an effort to exhaust local remedies.

The CRC also notes that even if local remedies had been exhausted, the challenger's role in the alleged deficiencies makes a challenge by him of the specific violations at issue here inappropriate. In so noting, the CRC does not reach the question whether the alleged deficiencies, if raised in an appropriate manner, would be a sufficient basis for setting aside the election results and ordering a new election.

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 August 12, 2024 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, August 12, 2024, 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, Vice-Chair, Credentials Committee
Nicole Fernandez, Vice-Chair, Rules Committee
Valeria Hernandez, Co- Chair, Rules Committee
Lara Larramendi, Co-Chair, Credentials Committee
Paul Seo, Vice-Chair, Credentials Committee
Laurence Zakson, Vice-Chair, Rules Committee