

MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: February 12, 2018

RE: **DECISION OF THE COMPLIANCE REVIEW COMMISSION (CRC)
RELATING TO THE CHALLENGE FILED BY MS. MARIA ESTRADA AND MS.
ELIZABETH CASTILLO REGARDING THE PETITION TO OBJECT TO AN
INCUMBENT'S AUTOMATIC ENDORSEMENT**

INTRODUCTION:

On January 25, 2018, Ms. Maria Estrada filed a challenge primarily regarding the rescission of two signatures from the petitions submitted. Ms. Elizabeth Castillo filed a challenge on January 26, 2018 related to the same issues.

Ms. Estrada and Ms. Castillo submitted a petition to include the incumbent in AD 63 to the non-incumbent endorsement process under CDP Bylaws Article VIII, Section 3 containing eleven (11) signatures prior to the deadline of 5 pm on January 17. In order for the petition to be valid in this district, the petition needed to contain 10 valid signatures. In the course of the verification process, CDP staff received rescission letters from two of the voters who signed the petition, Ms. Maricela Parga and Ms. Carmen Avalos. Staff accepted the rescission letters and this reduced the number of signatures from eleven (11) to nine (9) and thus the petition failed.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

1. Challenge submitted by Ms. Estrada on January 25, 2018.
2. Challenge submitted by Ms. Castillo on January 26, 2018.
3. Additional testimony submitted by Ms. Estrada on January 30 and January 31, 2018.
4. Additional testimony submitted by Ms. Castillo on February 1, 2018.
5. Testimony in support submitted by more than 13 individuals including: Bassett, Ester, Heib, Martin, Miller, Parmeter, Pinon, Robson, Roemer, Rol, Scolville, Vasquez, Yamanaka, etc.
6. Testimony opposition submitted by Mr. Bill Wong submitted on February 3, 2018.
7. Redacted petitions and rescission letters.
8. Memo from CDP Staff regarding challenge to petition verification results posted on January 19, 2018.

TIMELINESS AND JURISDICTION:

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 November, 2017, unless otherwise indicated.)

The filing by Ms. Estrada submitted on January 25, 2018 challenging the verification of petition results posted on January 19, 2018 is within the seven (7) calendar day requirement for timeliness.

Article XII, Section 2a states:

“The Compliance Review Commission shall have initial jurisdiction over all challenges and/or appeals arising under Article II (Membership); Article VI (Assembly Districts and Assembly District Election Meetings); Article VII (Executive Board), Article VIII (Endorsements, etc.), Article X (Charters), Article XI (Special Group Caucuses) and Article XIII (General Policies). The Compliance Review Commission shall have jurisdiction to hear and decide any challenge that is initiated before the 42nd day prior to any meeting of This Committee or its Executive Board.”

The CRC has jurisdiction under Article VIII (Endorsements).

STANDING:

According to Article XII, Section 3:

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

Ms. Estrada is a candidate for office who requested (filed and paid fee) the endorsement of the California Democratic Party and thus has standing to bring this challenge as she was adversely affected. Ms. Castillo also has standing as a delegate who lives in Assembly District 63.

FINDINGS OF FACT:

Ms. Estrada requested the endorsement from the CDP as a candidate for Assembly District 63. Mr. Anthony Rendon, the current officeholder for Assembly District 63, also requested the CDP’s endorsement. In accordance with the CDP Bylaws, Article VIII,

section 3, an incumbent officeholder is automatically placed on the consent calendar unless:

“Signatures of twenty percent (20%) of the eligible voters of the CDP Pre-Endorsing Conference for the relevant district is required to object to the automatic placement of an incumbent on the Convention consent calendar for endorsement.” (source: incumbent objection petition)

Ms. Estrada and Ms. Castillo submitted eleven (11) signatures prior to the deadline on January 17 at 5 pm. Statewide, CDP staff received such “pull petitions” in a total of nine (9) different districts, each of which needed to have each signer’s signature verified to validate the petition. Prior to completing the verification of the AD 63 petition, CDP staff received two rescission letters, one from Ms. Maricela Parga and one from Ms. Carmen Avalos, on January 18, 2018.

In verifying the petitions, the CDP staff took the most current list of eligible voters in AD 63 which was 48. Twenty percent (20%) of 48 equals 9.6, which means 10 verified signatures are needed to validate the petition.

In a memo dated January 19, 2018, CDP Staff stated:

AD 63 – Anthony Rendon – Challenge Failed

(20% = 10. Two Signature Rescission Letters Received Prior to Validation. Final Signature Raw Count = 9)

Verified Count – 9

The primary issue is whether such rescission letters are valid. In discussing the challenge, CRC noted that the CDP Bylaws are silent on the issue nor of any prior submissions of petition signature rescissions. In fact, the CRC was not aware of any authority directly on point, and in fact the two authorities normally relied upon contradict each other. For example, the CDP Bylaws provide that in connection with the submission of ballots, once submitted and received, a ballot cannot be retracted or changed. However, a petition is not a ballot, and the rule does not directly apply.

The other authority is Roberts Rules of Order, Newly Revised, 11th edition, which in section 45 allows changing one’s “vote” under certain circumstances. Again, this is not a vote, but a petition.

The CRC concluded that the Bylaws did not address the issue of a fair process which would allow a candidate being subjected to a pull petition to see the petition filed against him or her (with confidential information such as signatures redacted) and to seek rescissions within a period of time after filing the petition but before the verification process was completed; and, accordingly, concluded that transparency should prevail over secrecy, given that all participants are representatives of others who have the right to know how their representatives carried out their duties.

The CRC reached no conclusions as to the content of the rescission letters. As noted previously, the primary issue before the CRC was whether such rescissions were valid on

their face, and no direct evidence was submitted from the signers raising questions as to their intent.

FINDINGS AND 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 the challenger did not meet the 20% requirement to object to the automatic endorsement of an incumbent officeholder.
- 2) The CRC finds the right of an individual to rescind their signature is not prohibited by the Bylaws and thus the two individuals in this case should not be restricted from rescinding their signatures.
- 3) The CRC requests the Rules Committee to examine the issue of signature rescission to clarify and create a clearer, stricter standard.

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. (Article XII, section 6(a).) Thus, any appeal must be filed on or before February 24, 2018 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 7b, the filing of an appeal shall not stay any decision of the CRC. Parties may additionally respond in person, 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 March 8, 2018, 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,

Kathy Bowler, Co-Chair, Rules Committee

Coby King, Co-Chair, Rules Committee

Lara Larramendi, Co-Lead Chair, Credentials Committee

Garry S. Shay, Lead Chair, Rules Committee

Keith Umemoto, Co-Chair, Credentials Committee

Michael Wagaman, Lead Chair, Credentials Committee