

MEMORANDUM

TO: All Interested Parties
FROM: California Democratic Party Assembly District 51 Special Election Appeals Committee
DATE: October 12, 2017
RE: **REPORT OF THE ASSEMBLY DISTRICT 51 SPECIAL ELECTION APPEALS COMMITTEE ON THE OBJECTION FILED RELATING TO THE ASSEMBLY DISTRICT 51 POST-PRIMARY ENDORSING CAUCUS**

The California Democratic Party (CDP) Assembly District 51 (AD 51) Special Election Appeals Committee Meeting was called to order on October 11, 2017, at 6:05 PM via conference call.

MEMBERS PRESENT:

Ten of twelve members of the Appeals Committee were present; a quorum was present:

Eric C. Bauman, CDP Chair; Alex Rooker, CDP Vice Chair; Jenny Bach, CDP Secretary; Dan Weitzman, CDP Controller; Mark Ramos, CDP Region 11 Director; Michael Wagaman, CDP Credentials Committee Lead Chair; Garry Shay, CDP Rules Committee Lead Chair; Charu Khopkar, CDP Rules Committee Co-Chair; Jess Durfee, CDP Voter Services Committee Lead Chair; Anna Soto, CDP Voter Services Committee Co-Chair

INTRODUCTION:

Endorsing Caucus Result:

The California Democratic Party (CDP) Assembly District 51 (AD 51) Post-Primary Endorsing Caucus was held on Saturday, October 7, 2017. The result is as follows:

Note: The validity of two ballots was questioned. Both ballots in question were tallied in the same manner as provisional ballots: one tally was conducted with the ballots in question included and one tally was conducted with the ballots in question excluded.

Result with Ballots in Question Included:

Total Ballots Cast – 64

Vote Threshold to Receive Endorsement (60%) – 39

Tallies: Wendy Carrillo – 45; Luis Lopez – 12; No Endorsement – 7

Result with Ballots in Question Excluded:

Total Ballots Cast – 62

Vote Threshold to Receive Endorsement (60%) – 38

Tallies: Wendy Carrillo – 45; Luis Lopez – 11; No Endorsement – 6

Official CDP AD 51 Post-Primary Endorsing Caucus Result:

Having received 60% or more of the total votes cast, Wendy Carrillo was declared the CDP endorsed candidate. The result does not change, whether the ballots in question are included or excluded.

Objection Filing:

An objection to the CDP AD 51 Post-Primary Endorsing Caucus was received by CDP Chair on Monday, October 9, 2017, 5 PM, from AD 51 DSCC Member Ron Birnbaum et al. regarding the following:

- (1) requesting certain members of the Appeals Committee recuse themselves from the Appeals Committee based on alleged conflict of interest,
- (2) challenging the eligibility of certain appointed DSCC Members of the President pro Tempore of the State Senate, and
- (3) challenging the eligibility of the appointed DSCC Members of then-Assembly Member Jimmy Gomez.

On Tuesday, October 10, 2017, the CDP Chair received an email from Mr. Birnbaum that one signatory to the objection, AD 51 DSCC Member Eden McFadden, was mistakenly included as a signatory, and noted that Ms. McFadden should not have been included and that her name should be removed.

TIMELINESS AND JURISDICTION:

(All By-Law references are to the CDP Bylaws, as amended through August 27, 2017, unless otherwise indicated.)

According to CDP Bylaws, Article VIII, Section 3.e.(1).:

Such Special Election Endorsing Caucus shall otherwise proceed in accordance with the relevant procedures provided for in subsection (c) above and its decision shall become the endorsement of This Committee unless, within two (2) days a majority of the statewide officers of This Committee or 20 percent of the members of the Special Election Endorsing Caucus object in writing to the State Chair.

The CDP AD 51 Post-Primary Endorsing Caucus was held on Saturday, October 7, 2017, at 10:30 AM. The objection was received on Monday, October 9, 2017, at 5 PM, by email. The objection was in writing and was received within two days from the day that the Endorsing Caucus was held. Thus, the objection was filed timely.

According to CDP Bylaws, Article VIII, Section 3.e.(2).:

A Special Elections Appeals Committee will make the final determination at a meeting no later than five (5) days after an objection has been filed. This Special Elections Appeal Committee shall be comprised of the statewide officers; the Regional Director(s) of the relevant district, two (2) Executive Board members, appointed by the Chair of This Committee, from each of the following committees: Rules, Credentials and Voter Services.

Pursuant to CDP Bylaws, the Special Elections Appeals Committee has jurisdiction pertaining to objections filed relating to the Endorsing Caucus. Accordingly, CDP Chair Eric C. Bauman appointed the following persons to serve on this Appeals Committee:

Eric C. Bauman, CDP Chair
Alex Rooker, CDP Vice Chair
Daraka Larimore-Hall, CDP Vice Chair
Jenny Bach, CDP Secretary
Dan Weitzman, CDP Controller
Mark Ramos, CDP Region 11 Director
Michael Wagaman, CDP Credentials Committee Lead Chair
Lois Jean Hill, CDP Credentials Committee Co-Chair
Garry Shay, CDP Rules Committee Lead Chair
Charu Khopkar, CDP Rules Committee Co-Chair
Jess Durfee, CDP Voter Services Committee Lead Chair
Anna Soto, CDP Voter Services Committee Co-Chair

According to CDP Bylaws, Article VIII, Section 3.e.(3).:

The Special Elections Appeals Committee shall allow persons in teleconference meetings to constitute a quorum for any action.

Pursuant to CDP Bylaws, CDP Chair Eric C. Bauman convened the Special Election Appeals Committee Meeting to consider the objection filed via conference call.

STANDING:

According to CDP Bylaws, Article VIII, Section 3.e.(1):

The endorsing caucus shall be comprised of all members of This Committee resident in the district at 5 PM of the day of the Governor's Proclamation of the election, except that;

- (a) those members appointed by the appointing authorities for the offices described in Article II, sections 2a(10) and 2a(12) and not appointed pursuant to Article II, section 3c shall not be eligible to participate (or be counted in any calculation of percentages needed for endorsement under this section) unless the appointee is registered to vote in the same electoral district as the one that the appointing authority represents, and*
- (b) members who were eligible but have since the appointing deadline died, moved, changed their registration to a district other than the district the Special Election is occurring, or resigned may be replaced by the appropriate appointing authority.*

The Special Election Endorsing Caucus consisted of DSCC Members with full voting rights in AD 51, totaling 70 members.

According to CDP Bylaws, Article VIII, Section 3.e.(1).:

Such Special Election Endorsing Caucus shall otherwise proceed in accordance with the relevant procedures provided for in subsection (c) above and its decision shall become the endorsement of This Committee unless, within two (2) days a majority of the statewide officers of This Committee or 20 percent of the members of the Special Election Endorsing Caucus object in writing to the State Chair.

Pursuant to CDP Bylaws, twenty percent of the 70 members of the Special Election Endorsing Caucus is 14 members. Thus, the threshold required to file an objection by CDP AD 51 Endorsing Caucus Members is 14 members. Further, notwithstanding the validity of the ballots in question cast by Endorsing Caucus members that were tallied in the same manner as provisional ballots and the eligibility of those two Endorsing Caucus members to vote, the threshold required to file an objection does not change even if those two Endorsing Caucus members were removed.

The objection was filed by AD 51 DSCC Member Ron Birnbaum, along with 13 other AD 51 DSCC Members, totaling 14 DSCC Members. On Tuesday, October 10, 2017, the CDP Chair received an email from Mr. Birnbaum that one signatory to the objection, AD 51 DSCC Member Eden McFadden, was mistakenly included as a signatory, and noted that Ms. McFadden should not have been included and that her name should be removed. The removal of Ms. McFadden from the objection results in a total of 13 AD 51 DSCC Members filing the objection.

Appeals Committee Member Michael Wagaman moved that the Appeals Committee find that:

1. The objection does not meet the objection filing threshold of 20 percent of the members of the Special Election Endorsing Caucus as specified by the CDP Bylaws, based on the information that one of the Special Election Endorsing Caucus member signatures submitted was not valid;
2. Even if the objection filed had reached the threshold for objection filing, the objection on the Senate President pro Tempore's 15 appointed DSCC Members in question would not have been valid based on precedent pursuant to the July 26, 2017 decision of the CDP Compliance Review Commission the CDP Chair Election, that failure to include voters on an eligible voter list is not valid ground to disqualify vote; and
3. Any remaining issues are therefore rendered moot.

The motion was adopted with unanimous vote of the Appeals Committee Members present and voting. Therefore, the Appeals Committee finds that the objection has no standing.

Noting for Record:

The Appeals Committee notes the following for record:

Pre-Primary Endorsing Caucus:

- The CDP Chair held a conference call with affected AD 51 Democratic candidates on August 3, 2017, at 1 PM, regarding the DSCC appointments made by appointers prior to 5 PM of the Governor's Proclamation of AD 51 Special Election and addressed the clerical error that caused those DSCC appointments to not be included in the initial Endorsing Caucus eligible voter list sent to Democratic candidates who have registered to participate in the CDP endorsement process for AD 51 Special Election in the Primary.
- CDP Staff sent email to Democratic candidates registered to participate in the CDP endorsement process for AD 51 Special Election in the Primary with documentation of DSCC appointments made by 5 PM of the Governor's

Proclamation of AD 51 Special Election and final Pre-Primary Endorsing Caucus eligible voter list including said DSCC appointments.

- Two complaint letters were received by CDP regarding the Pre-Primary Endorsing Caucus held on Saturday, August 5, 2017, including:
 - Complaint letter received in-person, by email, and by fax on Saturday, August 5, 2017, filed by AD 51 DSCC Member Jeanine Rohn et al. alleging, inter alia, irregularity regarding appointed DSCC Members added to the Endorsing Caucus eligible voter list
 - Complaint letter received by email on Sunday, August 6, 2017, filed by AD 51 DSCC Member Jane Demian, alleging, inter alia, CDP's failure to adequately notify candidates regarding appointed DSCC Members added to the eligible voter list
 - Neither complaint filed met the threshold required per CDP Bylaws to qualify as a valid objection to the Endorsing Caucus for consideration by the Special Election Appeals Committee. Both complaint letters were referred to the CDP Rules Committee Endorsements Subcommittee as testimony on the CDP endorsement process.
- CDP Staff sent a Pre-Primary Endorsing Caucus result report via email to AD 51 DSCC Members on Saturday, August 5, 2017, following the Endorsing Caucus. The report included information on filing objection to the Endorsing Caucus. No objection filed met threshold required per CDP Bylaws to qualify as a valid objection to the Endorsing Caucus.

Excerpt of the CDP Compliance Review Commission Decision on CDP Chair Election, July 26, 2017:

“Delegates not appearing on the roster prior to the convention (4 voters): Counsel recommended and the CRC determined these votes should be validated. While the Challenger raised objections to three such voters, the CRC identified a total of seven such voters, including four where this was the only issue with their vote. Counsel noted that while Article IV, Section 1 states in part, “The roll of eligible voters at this meeting of This Committee shall consist of those members who have qualified as of February 7,” it does not require that those names appear on the roster by any prescribed deadline. The CRC noted that in all cases records show that the proper documentation was submitted to the CDP by the February 7 deadline. The CRC further explicitly rejected arguments submitted during testimony that counting such ballots would be unfair to the campaigns, noting that the rights of the voter trump the needs of any campaign.”

CONCLUSION:

The Appeals Committee found that the objection filed lacked standing. Therefore, the Appeals Committee did not consider the allegations in the objection. Accordingly, this report is so ordered, and is in effect.

The meeting was adjourned at 6:41 PM.

Respectfully submitted by the members of the CDP AD 51 Special Election Appeals Committee.