

2017 California Democratic Party Chair Election

Ellis Campaign Initial, Preliminary Ballot Review: Timeline, Findings and Pending Requests

OVERVIEW

The following provides an overview of the initial, preliminary findings from the Ellis campaign's review of the ballot materials. It is critical to note that this information cannot be conclusive, as the campaign's review team has not been provided with all of the requested material and has been denied access to finish its review.

At the heart of this matter is a knowable fact: are the votes of the DSCC delegates that were cast and counted on Saturday, May 20 in the California Democratic Party elections accurate and valid?

To answer this question, the California Democratic Party will need to investigate the possibility that individuals who secured delegate badges were not, in fact, those actual delegates. Additionally, the CDP will need to determine why ineligible individuals were awarded delegate badges as proxies and were not screened out. The CDP will also need to explain why financial eligibility is not clearly marked on credentialing materials. Finally, the CDP will have to answer how multiple individuals were able to obtain multiple ballots and vote more than once.

The information that this initial review uncovered is alarming and concerning. The campaign had requested that the material be presented to a neutral third party to investigate before this information was ever publicly released. Unfortunately, Eric Bauman through his legal counsel, a firm facing two conflicts of interest in this case, including involvement in an improperly cast ballot, has made it clear that there is to be no outside review. His response from counsel is that it's time for the Party to move on and begin its work for 2018.

However, if the discrepancies noted by Ellis' team are not verified by a neutral third party, the implications for the integrity and reputation of the California Democratic Party are severe. **Based on the information contained here, the actual vote count is in question.** It is believed that the wrong individual is serving as Chair.

SCOPE OF REVIEW

The Ellis campaign reviewed the following material:

- 1). Ballots cast and signed by the delegates on May 20
- 2). Credentialing Sign-In Sheets for both attendees who registered and pre-paid their dues and attendance fees and those who registered and were required to pay their dues and attendance fees on-site
- 3). Proxy forms
- 4). Ballot count sheets have been agreed to be made available but the Ellis review team has yet to review them

The Ellis campaign requested to review but was not provided the following material:

- 1). Discarded ballots
- 2). On-site payment receipts
- 3). Ballot sign-in sheets

TIMELINE

May 20 (Saturday) The first challenge was raised to the CDP Executive Director shortly after the doors to the ballot counting area were opened. The campaign requested a review of the ballots and was told by Executive Director Chris Myers to contact Senior Consultant Shawnda Westly. Ms. Westly conveyed that the matter would be properly addressed by Chairman John Burton, who would be reachable the next morning.

May 21 (Sunday) The challenge was raised to Chairman Burton during a phone call by then-Controller Hilary Crosby before 8 am. Sen Burton conveyed that Ms. Ellis should be proud of her campaign and getting so close to something no one believed possible, but the vote was done and there was nothing to be done about it. Ms. Crosby conveyed that Ms. Ellis would not be conceding. At this time, Ms. Westly requested a meeting between Ms. Ellis and Chair Burton.

At this meeting which took place on site at the convention prior to the start of the General Session, Ms. Ellis conveyed that she and other members of her campaign had received multiple reports of irregularities and inappropriate behaviors, which prevented her from having the confidence in the results of the election necessary to concede the election and ask her supporters to unite behind the leadership of Eric Bauman as the Chair.

The campaign was asked what evidence it had that the allegations were true; the campaign explained it would need to review the ballots and related materials in order to substantiate or refute the allegations. Chairman Burton informed the campaign that he would be gaveling in Eric Bauman as Chair, and that no challenge would be allowed.

Chair Burton did agree to convey publicly that Ms. Ellis was not conceding; in addition, he agreed that the campaign should have the right to access material to validate its concerns. A letter was presented to Chair Burton with the Ellis campaign's material and documents request, which was received by Colby King, CDP Parliamentarian and Executive Director Chris Myers and agreed to by Chair Burton.

After the completion of the Sunday General Session, Hilary Crosby met with Chris Myers, observed the sealed boxes, and was assured she would be present when he opened the boxes. Chris Myers kept the boxes in his personal possession, until 9:30 am on Tuesday morning, May 23, the earliest time available to begin the Ellis campaign ballot review.

May 23 (Tuesday) The Ellis campaign began reviewing ballots, in the batches of 100 prepared by the people who counted the ballots on Saturday evening, May 20, in ascending order, starting with batch one. It was agreed at this meeting that all questions or flagged issues would be reviewed at the conclusion of the process. The Ellis campaign team was permitted access by six persons; the process was overseen by Chris Myers, with other CDP staff assisting in shifts. Up to three lawyers from Kaufman Legal Group, jointly representing Eric Bauman and the CDP, also observed the ballot review, and were able to inspect any ballots and related materials as well.

The campaign was not permitted to photograph or copy any materials, and as such, all information was manually collected and recorded on the Ellis team's work papers.

On May 23, the team reviewed six batches; the process began at 9:30 AM and concluded before 5:30 PM.

The materials were re-packed at the end of each day, and the boxes were re-sealed in the presence of the Ellis team and the observers from the Kaufman Legal group who were present.

May 24 (Wednesday) The review process continued. It began at 9:30 AM and concluded before 5:30 PM.

May 25 (Thursday) The review process continued. It began at 9:30 AM and concluded 4:45 PM. The Ellis campaign requested to go until the predetermined time (5:30 PM) but were told it was concluded for the day. The campaign was also told that the CDP would not be able to accommodate the campaign until the following Tuesday, which would have been past the seven-day challenge provision of Article XII, Section Four of the CDP Bylaws.

May 27 (Saturday) Ellis campaign formally files challenge in order to meet the deadline to allow its challenge to be heard.

May 30 (Tuesday) Ellis campaign begins at 9:30 AM, completes its first pass through ballots, and asks to review certain batches to cross-reference missing or questioned data points, but does not arrange for a specific date and time to undertake that process, although Hilary Crosby and Chris Myers discussed the possibility that the campaign team would return on Tuesday, June 6th.

Based on the information gathered from the first three days of the review, the team became convinced that the number of discrepancies and patterns of evidence between inconsistent signatures and proxy selection justified an investigation by an independent professional in order to arrive at reliable findings. Through legal counsel, the campaign requested that all records associated with the vote be preserved, an interim Chair serve until the matter has been resolved, an independent forensic auditor be engaged, and a blue-ribbon commission be created to provide recommendations to re-design the CDP's voting procedures to avoid problems of these sort in the future.

May 31 (Wednesday) The review process continued. It began at 9:30 AM and concluded before 5:30 PM.

June 1 (Thursday) The review process continued. It began at 9:30 AM and concluded before 5:30 PM.

June 2 (Friday) Through counsel, the Ellis campaign requested responses to its previous requests. On behalf of Eric Bauman and the CDP, the Kaufman Legal Group refused all the requests, excluding a blue-ribbon panel that they agreed to create. Later that day, the Kaufman Legal Group communicated that they believed the review was complete and indicated that the Ellis campaign would not have access to the ballot materials again.

FRAMEWORK

The officers of the California Democratic Party (CDP) are elected every four years at the convention after the US presidential election by the members of the Democratic State Central Committee (DSCC), aka the delegates. The delegates are grouped in three categories: Assembly District Delegates (ADEM), County Committee Delegates (County), and appointments made by Party Leaders and Elected Officials (PLEOs). As part of the PLEO category, there are some ex-officio members: the DNC delegation, four representatives from the California Young Democrats and four representatives from the California Democratic Council.

All delegates are either elected, or selected/appointed by persons who were elected or ran for public office. The votes cast by the delegates are considered public; the ballots are signed and are available for inspection by appointment by any Democrat.

Volunteers connected with Kimberly Ellis' campaign for CDP Chair (Ellis' team) inspected all the ballots cast, cross-referenced the signed ballots with the sign-in sheets, and inspected the proxy forms connected with the votes cast.

In addition, the campaign received many communications from delegates throughout California describing many disturbing actions by individuals claiming to be acting on behalf of Eric Bauman's campaign.

The Ellis team noted enough instances of weaknesses and inadequacies in the general administration of the election to raise serious questions as to the overall validity of its outcome. The issues include:

- 1). Verification of Identity
- 2). Verification of Fiscal Eligibility
- 3). Signature Discrepancies
- 4). Duplicate Voting
- 5). Proxy Eligibility
- 6). Anecdotal Indications of Inaccuracy/Illegitimate Ballots

INITIAL FINDINGS

1). VERIFICATION OF IDENTITY

Unlike delegates to the Democratic National Committee Convention who are required to present photo identification each day to receive their DNC credentials, the delegates to the CDP convention did not have to present any proof of identity before they received their credentials.

The delegates to the CDP convention, as previously noted, were all either elected directly or chosen/appointed by bodies and individuals who were chosen in public elections. Unlike county registrars who can cross-reference voters' signatures against the voter registration file, the CDP has only one opportunity to verify the identity of each delegate: when they sign in and receive their credential. The CDP has required identification in the past, but its practice has been inconsistent and volunteer-dependent.

Since CDP delegates all serve as some manner of elected representatives, not verifying the identity of each person issued a credential is a dereliction of our collective duty to the registered Democrats who the delegates represent.

2). VERIFICATION OF FISCAL ELIGIBILITY

Voting eligibility is determined in part by 1) full payment of convention fees and 2) payment of dues or a written request for dues to be waived. The records of delegate sign-in do not consistently provide verification that payments and/or waivers were received prior to issuing credentials. This rule was clearly stated in registration information posted and shared on the CDP website. Without verification of payment records and due to incomplete information, verification of fiscal eligibility is not possible from the materials provided to the Ellis team.

3). SIGNATURE DISCREPANCIES

There are hundreds of ballots that have signatures that don't match credential sign-in signatures or are missing signatures. Since delegates have specific windows to obtain their credentials, which had to be presented in order to obtain a ballot, when the signature on the sign-in doesn't match with the signature on the ballot, this raises doubts that the individual voters were actually present during the window for registration.

4) DUPLICATE VOTING

The most concerning issue was duplicate voting – where an individual voted as a proxy on more than one ballot. There were multiple documented instances of this. It's gravely troubling that one of the individuals who voted for Eric Bauman as a proxy for two different delegates is an employee of the same legal firm currently representing Eric Bauman and the California Democratic Party. It is this same firm that has made the decision to prevent the Ellis team from continuing its review of materials; this same firm that currently employs the individual who voted twice and obtained two ballots.

5). PROXY ELIGIBILITY

During the review of the voter registration of proxies, it was noted that several individuals who served as proxies were not listed in the PDI database as registered Democrats, including in one instance, a proxy for an ADEM delegate that was not registered to vote in the same Assembly District as the original ADEM delegate (this is a violation of CDP eligibility rules).

It was also noted that there were more than a dozen missing proxy forms; therefore, no one could verify proxy address, current voter registration, or residence eligibility for those individual proxies.

6). ANECDOTAL INDICATIONS OF INACCURACY/ILLEGITIMATE BALLOTS

- The secretary of the Merced County DPCC was asked to add two people to the roster “retroactively” to make them eligible to be delegates and/or have proxies at Convention. This was also asked of Orange County for at least two delegates and in LA County for at least two delegates as well.
- One delegate reported that her proxy was misled by others and instructed to vote for Bauman for Chair against her expressed wishes.
- Although the Ellis campaign had been informed that only one observer from the campaign would be permitted in the credentialing area to observe the process, there were more than 20 observers

from the Bauman campaign in the credentialing area at several points, not just observing, but also interacting with the registration volunteers.

- Several delegates reported that Eric Bauman offered specific incentives to them (e.g. standing committee appointments, help with campaigns, etc.) in exchange for their votes.
- Delegates or their partners reported being threatened that the CDP and/or the LACDP would hinder their campaign efforts and political consulting businesses if they did not support Eric.
- An employee of the State Assembly contacted the Ellis campaign to share information about the Los Angeles County proxy team for Eric Bauman, which they claimed organized individuals to serve as proxy voters who did not meet all the CDP criteria required; they also expressed concern that s/he could be vulnerable to retaliation.
- Individuals reported a proxy room, where Bauman supporters were gathering and creating proxy forms, and recruiting individuals from the Sacramento area to serve as out-of-district proxies for PLEO's and their appointees.

FORMAL REQUEST

We have requested additional time and access to the materials for our review to complete the following tasks:

- Verify our own data collection
- Collect information regarding where proof of payment is and is not apparent in order to follow up with CDP staff to make sure required payments and/or waivers were received prior to issuance of ballots, and
- Learn how the alphabet was segmented for registration in order to ascertain if irregularities were general or localized to certain volunteer stations

CONCLUSION

Those who have attended several conventions in the past are familiar with the process of credentialing and ballot distribution. It is widely known that the tasks of credentialing and ballot distribution are performed by volunteers, most of whom are doing these tasks for the first time. These volunteers received minimal training and may only serve for one shift per the entire convention.

There is a strong implication that party insiders, with intimate knowledge of how the CDP operates, were able to exploit the weaknesses inherent in a process staffed by the volunteers with minimal training.

An independent audit of the registration and balloting in the CDP Chair's race provides an excellent opportunity for California Democrats to follow the trail of allegations right back to the actual public ballot.

The Party cannot go back in time and alleviate the storm of suspicion that surrounded last year's presidential primary campaign. But, in this instance, the CDP has the ability to do the right thing and subject our Chair's election to independent scrutiny. The genie of growing suspicion based on compelling evidence can, in fact, be put back in the proverbial bottle.

The outcome of this election is knowable. We must have the courage of our convictions, tell hard truths, be willing to facilitate difficult conversations and ask tough questions. Do we really want to learn what happened? Win or lose, for both sides, what are we going to do next? To quote Eric Bauman, "The California Democratic Party is the only state party in the country that knows how to do elections right!"

Well, this is our chance to prove that.