

TO: Executive Board, California Democratic Party

FROM: Rules Committee, California Democratic Party

RE: Conduct Commission

DATE: August 4, 2019

The following are proposed bylaws changes to effectuate a Conduct Commission adopted at a meeting of the Rules Committee on 7/23/19, pursuant to Article XV of the Bylaws of the California Democratic Party:

ARTICLE I: NAME AND PURPOSE

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Section 3. TERMS

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d. All references to the “Code of Conduct” shall refer to the Code of Conduct adopted by This Committee, set forth as Appendix “A” to these bylaws.

e. All references to the flow chart entitled “Process for Reporting Misconduct and Harassment”, shall refer to that document adopted by This Committee and attached hereto as Appendix “B”.

ARTICLE II: MEMBERSHIP

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Section 8. QUALIFICATION FOR MEMBERSHIP

A person is eligible for membership on This Committee only if such person is registered as affiliated with the Party at the time of election or appointment, maintains that status throughout their membership, and has agreed in writing to the Code of Conduct.

Section 9. REMOVAL FROM MEMBERSHIP

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b. This Committee may remove any member if, during his/her term of membership, such member affiliates with or registers as other than Party Preference Democratic; publicly avows preference for another party; publicly advocates that the voters should not vote for the endorsed candidate of This Committee for any office; ~~who~~ publicly gives support to or avows a preference for a candidate registered as other than Party Preference Democratic in the voter-nominated top two open primary; or violates the Code of Conduct.

c. Removal of a member may be effected in the following manner: . . .

d. Where a member has been accused of violating the Code of Conduct, removal may also be recommended to the Statewide Officers of This Committee, by a vote of a majority of all members of the Conduct Commission.

ARTICLE III: OFFICERS

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Section 2. DESCRIPTION OF DUTIES

a. The State Chair shall be the chief executive officer and the official voice of This Committee, shall carry out the policies and purposes, and shall pursue its interests to the best of his/her abilities, including, but not limited to:

(1) nominating an Independent Ombudsperson, in consultation with the Statewide Officers of This Committee, subject to approval by a majority vote of the members of the Executive Board present and voting who shall:

(a) not be a member or employee of This Committee,

(b) serve for a term of two (2) years,

(c) be subject to removal by a majority vote of the Statewide officers,

to receive and process a complaint of violation of the Code of Conduct,

(2) preparing a list of Investigators, in consultation with the Statewide Officers of This Committee and subject to approval by a majority vote of the members of the Executive Board present and voting, from which the Independent Ombudsperson may select an Investigator to investigate a complaint of a violation of the Code of Conduct and to assist in the work of the Conduct Commission; who, in the judgment of the Chair of This Committee, are:

(a) professional investigators; and,

(b) who shall not be members or employees of This Committee,

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Section 6. REMOVAL OF OFFICERS

An officer of This Committee ~~this organization~~ may be removed from office for misconduct or neglect of duty in office by the following procedures:

a. Any member of This Committee, or the members of the Conduct Commission, (hereafter, the Filer) may file a Statement of Charges to remove an Officer of this Committee (hereafter, the Accused Officer), being no more than 200 words, with the Secretary. If the Accused Officer is the Secretary of This Committee, all responsibilities of the Secretary with regard to this Section shall be carried out by the State Chair.

b. The Secretary, within seven (7) days of the receipt of the Statement of Charges, shall send to the Accused Officer by registered mail a copy of the Statement of Charges and a letter stating that the Accused Officer may either resign or file an Answer to the Statement, in not more than 200 words. Such Answer must be received by the Secretary within ten (10) days of the date that the Secretary mailed the Statement of Charges.

c. The Secretary, within seven (7) days following receipt of the Answer or the deadline for receipt of the Answer, shall issue to the Filer a Petition, which shall include the Statement of Charges and the Answer. If, within sixty (60) days of the date of the mailing by the Secretary of the Petition, the Filer returns to the Secretary the Petition with the names and signatures of ~~20 (twenty)~~ thirty (30) current Executive Board members, an item for Removal of Officer shall be placed on the agenda of the next regular Executive Board meeting held at least seventeen (17) days after the submission of such Petition by the Filer to the Secretary. When the Statement of Charges is filed by the Conduct Commission, no additional signatures are required and shall be considered as the Petition referred to herein. Written notice of this agenda item must be mailed to the Executive Board no less than ten (10) days prior to the Executive Board meeting. Where the basis of a Petition is an alleged violation of the Code of Conduct,

constituting sexual misconduct, as determined by the Conduct Commission, a Special Meeting of the Executive Board may also be convened to consider the Petition. A special meeting for purposes of considering such a Petition may be called by the Conduct Commission in consultation with the Chair of This Committee. In such circumstances the Chair of This Committee, or in the case of a Petition accusing the Chair of such violation, the Secretary of This Committee, shall provide written notice by letter or electronic mail to the Executive Board at least seven (7) days in advance of such a special meeting.

d. At said next regular meeting of the Executive Board, the item shall be the first item of business after the final credentials report. The Accused Officer may be removed by two-thirds (2/3) vote of all members present and voting, provided there is present and voting at least 33-1/3 percent of the membership of the Executive Board.

ARTICLE IV: MEETINGS

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Section 2. SPECIAL MEETINGS

This Committee may hold special meetings in any of the following ways: upon call of the State Chair; upon call of the Executive Board; upon call of the Conduct Commission in consultation with the Statewide Officers of This Committee; or upon the call of the State Chair within 15 days after receipt by the Chair of a written request signed by a majority of the members of This Committee.

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Section 7. PARLIAMENTARY PROCEDURES AND, VOTING, AND PUBLICATION OF CODE OF CONDUCT

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b. In order to vote, and have one's vote counted, at any meeting of This Committee, a member must have timely:

- (1) paid their dues and fees to This Committee, or had them waived,
- (2) registered for the meeting, if registration was required,
- (3) obtained their credential prior to the closing of credentialing, if credentials were issued for the meeting, ~~and~~,
- (4) completed and returned to the proper authority any ballot that may be issued, and
- (5) agreed in writing to abide by the Code of Conduct.

The Code of Conduct and procedures for reporting violations of the Code of Conduct shall be distributed in advance to all participants in all California Democratic Party meetings, via a URL Link provided in the Notice of Meeting. Meeting organizers are strongly encouraged to have copies of the Code of Conduct available at all meetings, to ensure that all participants are given an opportunity to agree in writing as provided in Article IV, Section 7, b, (5), and have their votes counted, as well as to be available for review.

ARTICLE V: STANDING COMMITTEES AND SPECIAL COMMITTEES

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Section 5. STANDING COMMITTEE DUTIES AND RESPONSIBILITIES

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b. Rules Committee:

It shall be the duty of the Rules Committee to keep the By-Laws and Rules of This Committee consistent with the aims and policies of This Committee, to propose changes in the rules and By-Laws and special rules when necessary, to promulgate forms for quarterly financial disclosure statements for the Statewide Officers, promulgate rules for the filling of vacancies in Regional Directorships, adopt guidelines for the Legislation Committee, promulgate rules for the conduct of Assembly District Election Meetings, to adopt guidelines upon recommendation of the Organizational Development Committee for the Chartering of Organizations under Article X of these bylaws, to advise the Secretary of This Committee as to what information is needed on the Application for Charter, approve or reject proposed Caucus Statements of Purpose and Intended Activity, promulgate Guidelines for Certification, Re-Certification, and Decertification of Caucuses, to advise the Secretary of This Committee as to what information is needed on the Application for Certification of Caucuses, certify and decertify caucuses, promulgate procedural rules for the operation of the Compliance Review Commission, recommend changes in the Code of Conduct as may be necessary from time to time, promulgate procedural rules for the operation of the Conduct Commission and to effectuate the flow chart entitled "Process for Reporting Misconduct and Harassment" attached hereto as Appendix "B", to hear certain appeals from decisions of the Compliance Review Commission as specified in Article XII, and to interpret the rules and By-Laws when called upon by the Chair of This Committee or the Executive Board.

ARTICLE VI: ASSEMBLY DISTRICTS AND ASSEMBLY DISTRICT ELECTION MEETINGS

Section 1. ASSEMBLY DISTRICT ELECTION MEETINGS

a. Regular, biennial Assembly District Election Meetings shall be held within each Assembly District in the State:

- (1) The Election Meetings shall be held on the Saturday or Sunday of the weekends immediately prior to and following the second Monday in January in odd- numbered years, with such meeting beginning no earlier than 10 am nor begin later than 3 pm, with the time for registration to be open for a two-hour period.
- (2) Persons eligible to participate shall be all registered Democrats residing in the Assembly District, who have agreed in writing to abide by the Code of Conduct.
- (3) Persons eligible to be candidates for Assembly District representative or Assembly District Representative to the Executive Board shall be all registered Democrats who were eligible to participate as such in the preceding General Election; provided however, that if a person turned 18, or became a United States citizen by virtue of naturalization, after the last day for registration for said election, execution on or before the end of the filing period referred to in Section 1(i) of the Article of a legally valid voter registration form showing a residence within the Assembly District shall constitute prima facie evidence of eligibility to participate; and has agreed in writing to abide by the Code of Conduct.

ARTICLE VIII: ENDORSEMENT OF CANDIDATES FOR PARTISAN AND NONPARTISAN OFFICE, AND ENDORSEMENT AND OPPOSITION TO STATE BALLOT PROPOSITIONS, INITIATIVES, REFERENDUM, AND RECALL

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Section 3. PARTISAN PUBLIC OFFICES OTHER THAN PRESIDENT

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c. Composition of Endorsing Caucuses, Timing, Qualifications for Candidate Consideration, Provision of Platform Link, Code of Conduct, Quorum, Written Ballot, No Endorsement Option, Number Endorsed, Vote Required:

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Insert a new (4), as follows, and renumber accordingly:

(4) Each candidate seeking the endorsement of the California Democratic Party shall be mailed, or provided via email, a copy of the Code of Conduct. All candidates seeking the endorsement of This Committee under Article VIII, Section 3 shall affirm in writing that they have read, and agree to abide by, the Code of Conduct.

ARTICLE IX: ELECTION OF DEMOCRATIC NATIONAL COMMITTEE MEMBERS

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Section 4. ELIGIBILITY AND NOMINATION

The name of any individual registered to vote as Party Preference: Democratic in the State of California who has agreed to abide by the Code of Conduct may be placed in nomination by a member of the Executive Board. The delegation shall adhere to the Equal Division Rule, unless an odd number of members is to be elected, in which case a variation of one shall be permitted. In the event of a tie vote, the winner shall be determined by lot.

ARTICLE X: CHARTERS

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Section 2. GRANTING

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d. Charter shall only be granted upon recommendation of the Organizational Development Committee pursuant to guidelines adopted by the Rules Committee, which recommendation must contain a finding that the organization has adopted the Code of Conduct as part of its own bylaws, and that each member is bound by its terms.

Section 3. DENIAL AND REVOCATION

a. This Committee shall have the power and authority to deny or revoke a charter of any organization, for cause by majority vote. Cause for denial or revocation shall include:

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(7) A finding of fact having been made by the Organizational Development Committee and concurred in by the Executive Board of This Committee that the organization has failed to act in, and/or has acted in a manner adverse or detrimental to, the best interests of the Democratic Party, including but not limited to:

(a) a failure to adopt or maintain the Code of Conduct as part of its own bylaws with a provision that each member is bound by its terms, and/or

- (b) a willful, intentional, or repeated failure to address violations of the Code of Conduct within the organization.

ARTICLE XI: SPECIAL GROUP CAUCUSES

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Section 3. Guidelines for Certification, Re-Certification, and Decertification of Caucuses

The Rules Committee shall promulgate Guidelines for Certification, Re-Certification, and Decertification of Caucuses, which shall include the process and conditions necessary to certify, re-certify, or decertify a caucus. These Guidelines shall include, as a condition of Certification and Re-Certification, a requirement that Caucuses adopt the Code of Conduct and make information about reporting processes for violations of the Code of Conduct readily available to members.

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Section 6. Decertification

After notice and an opportunity to be heard, and upon a finding by the Rules Committee that a certified caucus has failed to:

- a. maintain compliance with the above,
- b. adopt or maintain the Code of Conduct as part of its own bylaws with a provision that each member is bound by its terms, and/or
- c. has willfully, intentionally, or repeatedly failed to address violations of the Code of Conduct within the caucus,

the Executive Board of This Committee may decertify a Caucus by majority vote. In the event the Rules Committee should make a finding of non-compliance with the Guidelines, it shall report a recommendation to de-certify the Caucus specifically noting the grounds and basis for its decision. Such recommendation may only be overturned by the Executive Board of This Committee, by majority vote, but only if the Executive Board makes specific findings that the Rules Committee was incorrect in each of its findings that formed the basis of the Rules Committee's recommendation to decertify, or that all such defects have been remedied.

ARTICLE XII: COMPLIANCE REVIEW COMMISSION AND CONDUCT COMMISSION

Section 1: Commissions:

This Committee shall have the following Commissions, which shall exercise quasi-judicial authority, with the duties as set forth herein below:

- a. The Compliance Review Commission, and,
- b. The Conduct Commission.

Section 2: Compliance Review Commission:

INSERT CURRENT ARTICLE XII, properly repaginated, as Section 2.

Make the following change to the existing language regarding Jurisdiction as follows (repaginated as it would appear):

b. JURISDICTION

- (1) The Compliance Review Commission shall have initial jurisdiction over all challenges and/or appeals arising under these Bylaws, except as pertains to Removal or discipline of a Member, or Removal or discipline of an Officer of This Committee.

Section 3: Conduct Commission:

- a. Composition: The Conduct Commission shall consist of five (5) individuals, who need not be members of This Committee, but must be registered Democrats. Members shall include at least two (2) members who are experts in the prevention of sexual harassment and at least one (1) member who has substantial experience in representing complainants.
- b. Nomination: The Chair of This Committee, in consultation with the Statewide Officers, shall nominate the members of the Conduct Commission.
- c. Ratification and Retention: Persons nominated by the Chair shall be submitted to the Executive Board of This Committee for consideration for ratification by a majority vote of those members of the Executive Board, present and voting, a quorum being present. At the conclusion of the Term of Office, if a member desires to maintain their position, and every two years thereafter, the Executive Board shall conduct a vote as to whether to retain that member on the Commission, and that member shall continue to remain on the Commission only upon receiving a majority of all votes cast.
- d. Term of Office: The Term of Office of the Members of the Conduct Commission shall be two (2) years, beginning, and ending, at the first meeting of the Executive Board in odd numbered years.
- e. Vacancies: Any vacancy in the Commission shall be immediately filled by the same process and shall be for the remainder of the term.
- f. Duties: It shall be the duty of the Conduct Commission to:
 - (1) Work with the Independent Ombudsperson selected by the Chair of This Committee in consultation with the Statewide Officers of This Committee and approved by a majority vote of those members of the Executive Board, present and voting.
 - (2) Receive reports regarding completed investigations of alleged violations of the Code of Conduct from an Investigator selected by the Independent Ombudsperson from a list prepared by the Chair in consultation with the Statewide Officers of This Committee and approved by a majority vote of those members of the Executive Board, present and voting.
 - (3) Review such reports, including those that are relied upon for the denial or revocation of a Charter under Article X upon recommendation of the Organizational Development Committee, and,
 - (4) Recommend discipline to the Chair and Officers, on the basis of such reports and recommendations of the Investigator(s), within thirty (30) days of the Commission's receipt of a written report by an Independent Investigator. Discipline recommendations may include, but are not limited to:
 - a. Private Admonishment;
 - b. Public Admonishment;
 - c. Suspension of Rights for a time period not to exceed 180 days;
 - d. Removal from Office; and/or
 - e. Removal from Membership.

- (5) Discipline: The Chair and Officers shall implement any recommendations as to discipline made by the Conduct Commission unless the Chair and Officers vote to depart from a recommendation by a two-thirds (2/3) majority vote and provide a written explanation for the departure.
- (6) When the Chair or an Officer is alleged to have violated the Code of Conduct, the Conduct Commission shall prepare a report with disciplinary recommendations and provide it to the Executive Board, which shall implement those recommendations unless the Executive Board votes to depart from a recommendation by a two-thirds (2/3) majority vote, of those present and voting.
- (7)