

**BYLAWS COMMITTEE OPINION**  
**Retroactive Recall, Removal, Nullification of Election, or Change of Term**  
**of Regional Representatives**  
**1/31/2007**

**TABLE OF CONTENTS**

I. DECISIONS OF THE BYLAWS COMMITTEE.....	1
A. Can a Region change the length of Coordinating Committee terms from the two years as defined in the bylaws to something else, and in particular, can it do so in the middle of an existing term after a person(s) has been elected to it?.....	1
B. Can a Coordinating Committee member be removed from office without going through the recall process?.....	2
C. Does a region have a right to review previous elections and overturn elections it finds invalid? .....	2
D. If a region holds a regional representative election in compliance with Paragraphs 6-3.2c, 7-1.4, and 7-1.5, is the GPCA required to honor such an election? If not, under what circumstances can the CC reject such an election? .....	2
II. FULL REPORT.....	3
A. more detailed inquiries related to IA above.....	3
B. more detailed inquiries related to IB above .....	5
C. What does it mean for a County or Region’s procedure to be filed with the GPCA? .....	7
III. MINORITY REPORT .....	8
IV. UPDATE TO MAJORITY REPORT.....	9

Note: The intent of including a minority report is not to set a precedent for all future Bylaws Committee opinions, but to adequately address the depth and scope of the discussion on these issues.

**I. DECISIONS OF THE BYLAWS COMMITTEE**

*A. Can a Region change the length of Coordinating Committee terms from the two years as defined in the bylaws to something else, and in particular, can it do so in the middle of an existing term after a person(s) has been elected to it?*

COMMITTEE DECISION: No. A region may not shorten the length of a CC term from the two years defined in the bylaw, including in the middle of an existing term.

PASSED with 88% approval:

- Tim Morgan – Yes
- Mike Feinstein – Yes
- Bruce Wolfe – Yes
- Cat Woods – Yes
- Linda Lemaster – Yes
- SKCM Curry – Yes
- Pat Gray – No

Pat’s outstanding concern: “A region should be able to choose who it wants.”

*B. Can a Coordinating Committee member be removed from office without going through the recall process?*

COMMITTEE DECISION: No. There is no provision in the GPCA bylaws, other than a recall, for removing a representative from office. There is no distinction made between the removal of a representative from office and a recall of that representative.

PASSED with 80% approval:

Tim Morgan – Yes

Mike Feinstein – Yes

Cat Woods – Yes

Linda Lemaster – Yes

Pat Gray – No

Pat’s outstanding concern: “A region should be able to choose who it wants. A region should be able to hold a new election when it wants. A region should be able to hold a ‘vote of no confidence’ instead of going through the recall process.”

*C. Does a region have a right to review previous elections and overturn elections it finds invalid?*

COMMITTEE DECISION: Under certain conditions, yes. An election could be overturned by the constituent body on the basis of lack of quorum for the meeting during which the election was held, violation of the GPCA bylaws or regional process during the course of the election, electoral errors made at the time of the election, or a calculation error in the results. It is recommended to do this within two months of the election. If an election met the criteria of the GPCA bylaws and regional process at the time, it could not be retroactively overturned without following the recall procedure to recall the seated representative.

PASSED with 83% approval:

Tim Morgan - Yes

Mike Feinstein - Yes

Cat Woods - Yes

Linda Lemaster - Yes

SKCM Curry - Yes

Pat Gray - No

Pat’s outstanding concern: “A region has the right to elect their own rep and we don’t have the right to tell them how to do it and we can’t override their process.”

*D. If a region holds a regional representative election in compliance with Paragraphs 6-3.2c, 7-1.4, and 7-1.5, is the GPCA required to honor such an election? If not, under what circumstances can the CC reject such an election?*

COMMITTEE DECISION: The GPCA bylaws are unfortunately silent on the topic of how to enforce the bylaws or what to do when GPCA bylaws or a region’s approved process are violated. The Bylaws committee strongly recommends that a new bylaw be written and approved to handle this situation. While the CC does not have the authority to overturn a region’s election, how much latitude it has in recognizing the validity or invalidity of a region’s election is ambiguous. The CC has the ability to pass a bylaws interpretation on specific situations, with the stipulation that it must take that decision to the next General Assembly.

PASSED BY CONSENSUS

## II. FULL REPORT

*A. more detailed inquiries related to IA above*

*Can a Region change the length of Coordinating Committee terms from the two years as defined in the bylaws to something else, and in particular, can it do so in the middle of an existing term after a person(s) has been elected to it?*

The GPCA bylaws provide a clear process for changing the length of a Coordinating Committee (CC) representative's term in the middle of an existing term: the Removal for Cause section (Section 6-3). This requires presentation to the CC of a written statement specifying the cause for recall from three CC members or three General Assembly (GA) delegates from the region, a hearing by the constituent body facilitated by the CC where both sides have equal presentation time, and, following this, a decision by at least 2/3 of the constituent body to recall.

Section 6-3. Removal for Cause.

### 6-3.1 Resignation

Unless given special dispensation by the Coordinating Committee (CC) or the General Assembly, any CC member (or any officer appointed by the CC) who cannot fulfill their duties to the best of their abilities as described in these bylaws or operate in accordance with the 10 key values, shall resign by notifying the CC in writing. Resignation is implied whenever any of the following occur:

- a) the member moves out of the region they represent, or the state, if at-large;
- b) the member registers with any other political party, including decline to state;
- c) the member fails to maintain an updated, accurate voter registration, unless prohibited by law;
- d) the member misses three consecutive General Assembly meetings or CC regular meetings without appointing a qualified alternate.

### 6-3.2 Recall Authority

The decision to remove a CC member (or any officer appointed by the CC) must be made by the constituent body empowered to elect the member or appoint the officer:

- a) The constituent body for appointees of the CC is the CC;
- b) The constituent body for at-large CC members is the General Assembly;
- c) The constituent body for regional CC members is the regional caucus of General Assembly delegates or an alternate body if designated according to Paragraph 7-1.5.

### 6-3.3 Recall Procedure

A CC member (or any officer appointed by the CC) may be removed from office if the member or appointee fails to resign as described in paragraph 6-3.1. The following recall procedure must be followed:

- a) A written statement from three active CC members (or three General Assembly delegates from the region represented by a regional CC member) must be presented to the CC and the individual in question specifying the cause for recall at least two weeks prior to a regular meeting of the constituent body.
- b) The CC may appoint a special committee to attempt mediation. In any event, if a resolution agreeable to both parties is not reached by the day of the meeting of the constituent body, the CC shall facilitate a formal recall vote.
- c) If a formal recall vote is required, both parties shall be given equal time to make their case at a regular meeting of the constituent body where a quorum is present (regional caucus quorum is more than 1/2 of the total number of delegates allocated for the region).

The recall proposal is a business decision requiring consensus or a 2/3 fallback vote to remove the member.

*There have been arguments advanced about a connection between the dates of County Council elections and Regional Representative elections. Does this connection exist in GPCA Bylaws or in its Rules & Procedures?*

The GPCA Coordinating Committee was created at the August 1990 General Assembly in Arcata. The original length of Coordinating Committee terms was 18 months. This was changed to two years at the April 2001 General Assembly at Sacramento, and is currently reflected in Paragraph 7-1.5 of the GPCA bylaws.

#### 7-1.5 Selection of Regional Members

Regional members shall be selected by regional caucus of delegates at General Assembly meetings, unless the active counties of a region select another process. Any such alternative process must be consistent with the ten key values, GPCA bylaws, and California law; and approved by all the County Councils of the active counties of a region; and filed with the Coordinating Committee and the Bylaws Committee. Regions with two or more seats are encouraged to strive for gender balance.

The state of California changed the primary from June in 1994 to March in 1996 to June in 1998 to March in 2000 ([http://www.ss.ca.gov/elections/elections\\_elections.htm](http://www.ss.ca.gov/elections/elections_elections.htm)). Despite this, there was no effort on the state party level during this time to connect CC terms with county council elections.

In April 2001, the GPCA GA changed the length of CC terms from 18 months to two years. Had connecting CC terms with County Council elections been an issue at that time, it could have been part of that proposal or offered as a friendly amendment. However, the issue was not even mentioned in the list of comment/ concerns recorded on the GA proposal at that time. There is no mention of a connection between the timing of regional rep elections and county council elections in the GPCA bylaws or procedures, the April 2001 proposal to the General Assembly that changed the length of the term from 18 months to two years ([http://cagreens.org/plenary/archives/agendas/0104Agd\\_Sac.pdf](http://cagreens.org/plenary/archives/agendas/0104Agd_Sac.pdf)), or the minutes from that meeting ([http://www.cagreens.org/plenary/archives/minutes/0104Min\\_Sac.pdf](http://www.cagreens.org/plenary/archives/minutes/0104Min_Sac.pdf)).

In 2004, the state of California changed the date of the primary yet again, this time back to June. Between the time the legislature changed the date and the beginning of calendar year 2006, the GPCA had five General Assemblies, yet again there was no proposal to the GA for decision or even discussion to align the beginning/ending dates of CC terms with those of County Council elections.

The current beginning/ending dates for Regional Representative terms are:

- Emerald (1) – January 2008
- North Bay (1) – February 2007
- San Francisco (1) – May 2008
- Silicon Valley (1) – June 2008
- East Bay (2) – July 2007, July 2008
- Monterey Bay (1) – August 2007
- Central Coast (1) – August 2007
- Los Angeles (3) – April 2008
- San Bernardino / Riverside / Orange (1) – November 2005

San Diego / Imperial (1) – March 2008

Central (3) – North, May 2007; South, May 2007; At-large, September 2008

At-Large (4) – two at first General Assembly in 2007, two at first General Assembly in 2008

Six of the sixteen regional CC seats (almost 40%) are currently scheduled for elections during the five months immediately preceding county council elections, including two (San Francisco and San Diego/Imperial) in the month immediately preceding. By contrast, only three regional elections come up in the same calendar year after a county council election. Very few county council elections involve general membership participation in contested elections.

There is therefore no mandatory or historical connection between the timing of regional rep and county council elections in GPCA bylaws or practice.

*There have been arguments advanced that Regions may change the length of an existing term, even after an individual has been elected and is already serving her/his term. Is there any provision for this in GPCA Bylaws?*

There is no provision in the GPCA bylaws for this. Paragraph 7-1.4 states that the length of term is two years. The only way this could be shortened without a bylaws amendment is through resignation or recall.

*If Regions were able to change the length of an existing term (even if it were in order to change the existing beginning/ending dates to new ones), how often could they do so? An unlimited number of times? One time with each new County Council? Something else?*

*If Regions were able to change the length of an existing term, how would such a process be differentiated from a recall?*

*If Regions were able to change the length of an existing term, would there be standards for allowing a Region to do so? Under what voting conditions could it occur - a simple majority, 2/3, 80%? Could it occur after the term began and a new person was already occupying the seats? Could it occur only before a new term began?*

*Would it require a bylaws change to establish the answers to any/all of these questions?*

Allowing the length of existing terms to be changed and establishing the standards and limits for such changes would require a bylaws amendment by the GA. The current voting conditions for a region to decide to change the term of a seated representative would be those stipulated in Paragraph 6-3.3 of the GPCA bylaws: statement of cause from three CC representatives or GA delegates from the region, a meeting of the constituent body facilitated by the CC where both parties have opportunity to make their case, and at least 2/3 approval by the constituent body.

*B. more detailed inquiries related to IB above*

*Can a Coordinating Committee member be removed from office without going through the recall process?*

*Is there any provision in the bylaws for removal of a representative other than a recall? Is there any distinction made between removal of a representative from office and a recall of that representative?*

There is no provision in the GPCA bylaws, other than a recall, for removing a representative from office. There is no distinction made between the removal of a representative from office and a recall of that representative.

*Does a recall under 6-3.1(a) - (d) require a hearing and vote under 6-3.3(c), with the person to be recalled given the opportunity to attend and state their case?*

Paragraph 6-3.1 refers to resignations, not recalls. If a representative meets the conditions of implied resignation and fails to resign, this is grounds, under Paragraph 6-3.3, for a recall of that representative. So if the implied resignation is contested, it is grounds for a recall, which *does* require the steps of a hearing and vote stipulated in 6-3.3.

*Can a business decision of a Region take the place of a recall under 6-3.1(a) - (d), by in effect, removing a Coordinating Committee member based upon 6-3.1(a) - (d), but without going through 6-3.3(c)?*

As noted in the answer to the previous question, the failure of a representative to resign after meeting one of the conditions in 6-3.1 is grounds for a recall. 6-3.1 is not itself about recalls. If an implied resignation is contested and a recall initiated, the recall procedure “must be followed,” as stated in 6-3.3.

#### 6-3.3 Recall Procedure

A CC member (or any officer appointed by the CC) may be removed from office if the member or appointee fails to resign as described in paragraph 6-3.1. The following recall procedure must be followed:

- a) A written statement from three active CC members (or three General Assembly delegates from the region represented by a regional CC member) must be presented to the CC and the individual in question specifying the cause for recall at least two weeks prior to a regular meeting of the constituent body.
- b) The CC may appoint a special committee to attempt mediation. In any event, if a resolution agreeable to both parties is not reached by the day of the meeting of the constituent body, the CC shall facilitate a formal recall vote.
- c) If a formal recall vote is required, both parties shall be given equal time to make their case at a regular meeting of the constituent body where a quorum is present (regional caucus quorum is more than 1/2 of the total number of delegates allocated for the region). The recall proposal is a business decision requiring consensus or a 2/3 fallback vote to remove the member.

*May a person be recalled retroactively? If so, are there any restrictions on determining the effective date of recall? Would votes taken during that time have to be changed to remove the rep's votes retroactively? May a person be recalled who is no longer in office?*

No. There are no provisions in the GPCA bylaws for a retroactive recall or removal from office. If a region goes through the procedure of removing its representative from office according to Paragraph 6-3.3, the removal takes effect as of the recall decision by the constituent body after following the recall procedure in 6-3.3.

*Can a second person be removed from office without a hearing under 6-3.3(c), if they served as an alternate for a person who is recalled? Or are they entitled to a hearing under 6-3.3(c) of their own?*

The process for removing a representative is stipulated in the bylaws without any distinction between those who were elected directly to the position and those who were formerly alternates and then replaced another representative. Unless stipulated by a region's alternate process, a region has a choice at the time of resignation or recall of a representative whether to hold a new election for that position or allow the alternate to replace the representative. Once that decision is made, the new representative is entitled to a fair hearing in compliance with the bylaws. A region is free to recall more than one representative or alternate, but the region must go through the recall procedure for each.

*If they are entitled to a hearing of their own, can they be recalled based upon the recall of the person for whom they served as an alternate or must they be recalled based upon issues specific to them? If they can be recalled on the basis of issues of the person for whom they were an alternate, can such a recall be performed retroactively?*

As stated earlier, recalls take effect as of the recall decision after following the recall procedure. They cannot be performed retroactively. The constituent body may hear all the issues related to the representative being recalled.

*C. What does it mean for a County or Region's procedure to be filed with the GPCA?*

The region submits its procedure as approved by the counties in the region to the CC and the Bylaws committee. Also helpful are the minutes of the meeting(s) where the procedure was passed and any relevant quorum information.

*How have Regions notified the Bylaws Committee and the Coordinating Committee of their alternate processes in the past?*

Alternate processes have been posted to the listservs of these committees.

*Have Regions been required to notify the committees prior to using the process or have the alternate processes been considered valid as long as they've received valid approval from every county in the region?*

Regional alternate processes have been considered valid if they've received valid approval from every county in the region prior to using the processes. Notification has been accepted after the use of the process. As Jim Stauffer wrote on February 2, 2005

(<http://marla.cagreens.org/mailman/private/gpca-cc/2005-February/002665.html>),

“The procedure is required to be approved by the affected county councils, and filed with the CC and Bylaws. But the procedure must be consistent with CA laws, GPCA bylaws and 10KV, that's where the CC & Bylaws review comes in. The timing of all this isn't indicated.”

*Do the Bylaws set a standard for how this process should occur? If the process is unclear and/or has been applied unevenly in the past, how should the GPCA go forward in the future?*

What standards the GPCA ought to adopt in the future is somewhat beyond the scope of the Bylaws committee's purview. It is recommended to verify the regional decision with collection of meeting minutes and quorum information and to apply all criteria as even-handedly as possible. We also recommend that the advice and consent roles of the Bylaws committee and the

CC on these regional procedures be clarified; this could be clarified in a GPCA bylaws amendment or Procedure.

This report is submitted by an 86% majority of the Bylaws Committee:

Tim Morgan, co-coordinator and liaison to the Coordinating Committee  
Cat Woods, co-coordinator  
Linda Lemaster  
KCMS Curry  
Mike Feinstein  
Bruce Wolfe

### **III. MINORITY REPORT**

The Bylaw Committee was requested by the State Coordinating Committee to give our opinion on matters relating to term of office for Regional Reps, the method of recall for these Reps, and an inquiry on whether the C.C. can disregard the results of an election that was held according to bylaws. The majority report on these matters was given as if these questions were generic to all situations and not specifically concerned with the current impasse in the State Coordinating Committee concerning who are the legitimate representatives from Los Angeles.

It is the opinion of this minority report that the last question concerning recognizing elections is the most vital to the successful functioning of our political party. Grassroots Democracy is one of the ten key values of the Green Party. The results of an election take precedent over nominal times of service and recalls that did not take place.

The Bylaws Committee stated by consensus that the GPCA CC does not have the authority to overturn a region's elections. Los Angeles has the right to elect their Regional Representatives to the State Coordinating Committee.

The state party, including the CC, should defer to its counties and regions when possible, subject to the counties and regions using open, democratic processes. The bylaws provide for a region's ability to elect new regional reps independent of the default two year term. The bylaw (7-1.4) provide the "CC representatives shall serve for a nominal term of two years or until their successors are elected", which should be interpreted to allow for either shorter or longer terms than two years, at the option of the region.

In the case at hand (LAC), the county/region bylaws were written and regional reps were elected by a rump county council, just before the current county council was elected.

Democracy demands that the CC defer to the GPLAC county council in this matter.

This report submitted by:

Patricia Gray, Minority Report scribe



#### **IV. UPDATE TO MAJORITY REPORT**

In response to the argument made during debates, that the intention of the GPCA bylaws is that Section 6-3 should apply only to cases of actual malfeasance, we would like to point out that there is no need for a region to *ever* follow the provisions for recalling a representative if it may hold a new election at any time. A region would have no reason to provide a fair hearing and face a 2/3 threshold if it could simply hold a new election instead. The idea that the GPCA bylaws are intended to provide due process in cases of actual malfeasance but not in cases where there is none seems to us implausible.

We are concerned about the possibility of setting such a precedent. Once regions can hold elections whenever they want, there would likely be an increase in elections held whenever a majority shifts – creating a state of “temporal gerrymandering.” We are convinced that Section 6-3 is designed to avoid such situations, by requiring a fair hearing of both sides when a region becomes unhappy with its representative during the course of that representative’s elected term.

The key distinction made in this opinion is that between “overturning” an election and “recognizing the invalidity” of an election. Regional elections are clearly expected to be held in accordance with GPCA bylaws. We recommend that the General Assembly approve a clear procedure and set of criteria for the recognition of elections as valid or invalid according to GPCA bylaws.