

## CONCLUSION BY MARTHA E RANDOLPH OF THE INVESTIGATION INTO THE COMPLAINT FILED BY MARY HICKNEY AGAINST MICHAEL GOGOJUCH JR.

### MY FINDING

In my opinion Michael Gogojuch Jr AND the entire Steering Committee of the LGBT caucus changed the date, the time and the location of the August 2018 LGBT Caucus election of caucus officers meeting without providing a justifiable reason, but with the full knowledge that caucus members who would be unable to attend in person would be unable to vote in those elections. This includes members who live in other counties, and any members who could not attend for any reason. They also did not respond to questions about teleconferencing posted as early as July 23<sup>rd</sup> and they did not inform members of the option of using a proxy to vote.

I cannot recommend an official Reprimand, but I do recommend a censure for Michael Gogojuch Jr, and the entire Steering Committee of the LGBT Caucus for not providing an equal and democratic voting opportunity to all legal Caucus members during the August 2018 elections for caucus officers

### MY INVESTIGATION

An examination of all the meeting postings on the LGBT Facebook page for 2018 and backwards into 2017 show that, as per the complaint, LGBT Caucus meetings took place at the headquarters of the Democratic Party of Hawaii, (except for some special events which took place at other locations and involved the general public) which has teleconferencing capability. Those meeting postings always included the teleconferencing information together with the meeting information.

In addition the DPH headquarters calendar records show the third Saturday of every month for two years is firmly reserved from 10:00 AM till 12:00 for the LGBT Caucus. The DPH calendar confirms that the caucus meetings returned to their usual time and location following the August meeting and that they continue to hold that day and time in reserve into the future.

If Mr. Gogojuch Jr and the Steering Council knew when they booked the location, that it had no teleconferencing capability they should have and could have posted that information immediately as they have when the capability was available for other meetings. If they did not know if that capability existed, then they should have asked the venue manager about that when the first question was posted on July 23<sup>rd</sup>. A response of “We don’t know yet and are looking into it” could have been posted. If they knew there was no teleconferencing capability they could have looked into renting or borrowing the necessary equipment or just brought in a computer and set up a skype conference call using a personal cell phone as a hot spot if there was also no Wi-Fi capability.

The explanation given in writing to Ms. Hackney’s complaint by Mr. Gogojuch Jr said in part, that the caucus “held the meeting at a publicly accessible location that would allow for greater participation.” I find this statement ironic since the location selected did not provide

teleconferencing and therefor prevented the participation of any members who could not make that meeting in person.

He goes on to say that the DPH headquarters location does not allow for sufficient parking for some meetings which then must be held at other locations. On the LGBT Facebook page I did not find many regular caucus meetings, other than special events which were of interest to the general public or involved a guest speaker, listed as held elsewhere. There were a few and I looked back into 2017 for such. In 2018, there was a March 17<sup>th</sup> candidate's forum at which according to the Facebook page 35 people went, and the February candidate forum which says 37 went, in 2018. Those numbers may not be an accurate count but in my experience candidate forums where all the important candidates speak, are usually well attended.

No minutes of any kind, as specified must be kept in the job description of the Caucus Secretary's job in the Caucus Bylaws, were made (Article 3 Section 8 see footnote) or if they were they were withheld from the investigation when all 2018 minutes were asked for.<sup>1</sup>

I did not find any meetings listed that were held at a location other than the DPH headquarters which indicated caucus business was discussed even previous to Jan 2018. Meetings in May, September, November and December 2018 were all held at the DPH headquarters but also had no minutes recorded or at least no minutes which were sent to the investigation when requested.

In addition Mr. Gogojuch Jr. and the Caucus Steering Committee members have attended many meetings of the Oahu County Central Committee, and meetings of the State Central Committee at the DPH Headquarters where over 30 people are regularly in attendance. Obviously parking was not so serious an issue that it interfered with the larger numbers of attendees than the 18 who attended the August 2018 LGBT Caucus meeting.

Mr. Gogojuch Jr.'s negation of Ms. Hackney's citation of the DPH Bylaws Article 5:7A:2 as being only about the initial certification of a caucus is inaccurate. Section 7 simply applies to Caucuses; 7A 1-4 establishes the minimum requirements for a caucus to be certified by the SCC. There is nothing listed in 7A:2 which indicated those conditions once met may be discarded, 7A:4 makes it clear that "Certification shall be continuous until officially terminated by the State Central Committee due to:

(a) Action of Caucus substantially not in compliance with Democratic Party of Hawai'i Constitution and Bylaws or the Caucus Bylaws..." which means if the requirements for establishing a caucus as listed in 7A:2 are not continued, then the caucus may be terminated.

Mr. Gogojuch Jr.'s assertion that there are no requirements in the LGBT Bylaws or in the DPH Bylaws that require the use of teleconferencing is absolutely correct and neither he nor the

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<sup>1</sup> LGBT Caucus Bylaws: Article 3 Section 8 Duties of the Secretary: The duties of the Secretary shall be to: take and **maintain minutes of all meetings of the membership** and all Steering Committee meetings of the Caucus, **including but not limited to date, time and place, and whether regular or special**; Ensure that all notices are duly given in accordance with these Bylaws; Be the custodian of the records of the Caucus; Exhibit at all reasonable times to any member of the Caucus, as prescribed by the by- laws or policies of the Steering Committee, all records and documents of the Caucus maintained by the Secretary; and In general, perform all duties incident to the office of the Secretary and other such duties as may be required by the Bylaws of the Democratic Party of Hawaii, the laws of the State of Hawaii, by these Bylaws or which may be prescribed, from time to time, by the Steering Committee.

Steering Committee may be accused of violating any such requirement. Obviously both sets of bylaws need to be brought into the 21<sup>st</sup> century. However the Facebook page postings for meetings demonstrate the importance to the LGBT Caucus of using teleconferencing technology which Mr. Gogojuch Jr. reinforces in his response to Ms. Hackney's complaint, "the LGBT Caucus is ... the top donor for the current video-conferencing system." I personally remember the LGBT Caucus using a telephonic only teleconferencing device several years ago when the DPH was located on Ward Ave. The LGBT Caucus has been a pioneer in using the technology to keep all its members in touch with the caucus meetings; which also makes the August 2018 election meeting lack of a teleconferencing device questionable at best.

Ms. Hackney's complaint is technically flawed. Her citations are not fully accurate and not as complete as they should have been. She directs her complaint towards Michael Gogojuch Jr alone instead of including the full Steering Committee of the caucus, which the LGBT Bylaws hold responsible for setting up the election meeting (Article 3 Section 3).<sup>2</sup>

In addition the form of the complaint is not written correctly as required in the DPH Bylaws Article 1 section 8. There are also some unclear emotional comments which detract from the viability of the complaint. An addendum to her complaint was considered by all the investigation committee members and dismissed as being irrelevant to the complaint because it dealt with personal family matters which we were unqualified to interpret and some considered inappropriate all together.

The cosigners to the complaint did not add anything material to it and may not even be current caucus members. That can be determined by looking at membership lists.

Never-the-less, I believe the substance of the complaint , that the elections were not democratic in that they denied all caucus members an equal right to vote in the caucus elections, has merit.

## CONCLUSION

I therefore feel that the caucus elections held on Aug. 21<sup>st</sup> 2018 were undemocratic and the results should either be discarded and a new vote called for, or steps taken to contact the entire active caucus membership and ask them to confirm their acceptance of the current elected officers. If a majority of the caucus members respond with acceptance then there would be no need for a second vote.

Any such communication should be handled by the State Central Committee to avoid any confusion concerning political factional differences between the LGBT Caucus and members of the OCC.

I also find that the requested "reprimand" in the complaint is too extreme in the absence of evidence of repeated similar actions or violations, by either Michael Gogojuch Jr. and/or the

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<sup>2</sup> "The actual meeting date and time shall be determined by the Steering Committee, but shall be within 90 days after the last regularly scheduled meeting held prior to the convention."

Steering Committee of the LGBT Caucus, of the DPH bylaws or LGBT bylaws. This seems to have been a single action which has never happened before.

The only other option described in the DPH bylaws (Article 1:8C:4) of a “censure” seems a bit tame for this violation of essential democratic principles. The members of the LGBT Steering Committee and Michael Gogojuch Jr. are some of the most experienced and competent members of the DPH, having fulfilled and currently fulfilling a wide range of roles in both County and State Party councils and in the DPH, for well over a decade. I must conclude they knew precisely what they were doing and were willing to accept any consequences coming from their actions.

I am therefore recommending that Mr. Gogojuch Jr and the Steering Committee of the LGBT Caucus be censured for their actions in this case, and given a warning that any repetition of such an action is likely to result in a Reprimand should they be found responsible. The current DPH Bylaws do not say that a recommendation of any kind or any actions other than a letter of censure be sent to the accused parties. There is obviously a desperate need for options that are more severe than the current censure and less severe than the current Reprimand in the DPH Bylaws.

If I could make a recommendation it would be as follows.

That Michael Gogojuch Jr. and the current members of the LGBT Steering Committee be placed on notice that all of their official actions within the caucus will be overseen by either the rules committee of the SCC or by an individual or committee assigned the task of oversight. Also, copies of all meeting minutes and responses to any questions about the caucuses actions sent to them by the oversight committee or the SCC Rules Committee must be submitted as requested and will be filed for review in 2020 prior to new LGBT caucus elections. I would also recommend that their actions in their offices within the caucus during 2018 be examined in detail for non-compliance or errors in judgement. If any were found the errors would be noted and corrections applied if still possible

Further I would recommend that the LGBT Caucus be placed on probation through the next State Convention as to their status as a DPH State Caucus. They could be required to demonstrate compliance with the current caucus bylaws and any amended caucus bylaws if any such are amended before the 2020 State Convention. They would have to remain in compliance with the current DPH bylaws and any amended bylaws if any are amended before the 2020 State Convention, and the DPH Constitution as well in keeping with DPH Bylaws from 2018 Article 5 Sections 7 A and E.

It might be wise for the SCC Rules Committee to look into all the current caucuses including the LGBT Caucus to be sure they are all in compliance with their own bylaws and DPH Bylaws Article 5 Section 7A-E. It is probable that all the caucuses have elements of careless or deliberate violations because there has been no active oversight by the SCC into caucus’s compliance with due to addressing many other important party issues. I also suggest that all the caucuses should review their current bylaws to update them into the 21<sup>st</sup> century.

Submitted by me on 2/13/2019 by email to Alan Burdick and Richard Halverson

## MY REASONS FOR SUBMITTING A SEPARATE CONCLUSION FROM THE OTHER TWO COMMITTEE MEMBERS

By Martha E Randolph 2/13/2019

1. The investigation was significantly delayed from the time I agreed to participate due to disputes over jurisdiction and committee membership changes. This brought the not quite completed investigation too close to my date for surgery and my week of pre-surgery protocols. I was forced to complete my part of the investigation ASAP. I am confident that my conclusion is accurate and fair based on the information I have as of this writing and public records.

2. I became aware on Feb 6th that a new member of our committee, Kathrine Kogl was or had been a member of the LGBT Caucus although she said she was currently inactive. She was still on their email database which was confirmed for me on Feb 7<sup>th</sup>. I received a response from her to a questionnaire I had asked to be sent out to the entire LGBT membership and which was sent out on Feb 6th. Her answers were helpful to the investigation but she had not shared the information with either me or our colleague Jeanine, until she received my questionnaire. The fact of Ms. Kogl's membership in the caucus and her access to email communications should have been disclosed from her first email communications with me and Jeanine Jones. I believe she should have volunteered any information she had about the elections and the complaint in general even if it would only confirm the information we already had as of January 27th .

I became concerned that her connection with the LGBT Caucus might be grounds for a protest by the complainant and a challenge to the objectivity of the committee finding regardless of how objective she personally tried or proved to be.

I am not accusing either Kathrine or Jeanine of being biased or not having done their job correctly. I am sending this without knowing what additional information they may have discovered and without knowing what conclusion they have arrived at. I MUST focus all of my energy on myself at this point.

Therefore I have submitted this separate conclusion in case it may seem helpful to the deliberations of the OCC or possibly the SCC concerning the final disposition of this complaint.