



Texas Democratic Party

Serving the People of Texas since 1836

Charles E. Soechting, Chairman

Rec'd
3/28/05
p.m.

MEMO

March 25, 2005

To : Ken Molberg, SDEC 16
From : Charles Soechting, Chairman
Texas Democratic Party
Re : Vacancy in the Office of Dallas County Chair

You have asked for an interpretation of the operation of Article III (E) (5) (a) of the Texas Democratic Party Rules and Tex. Elec. Code Ann. § 171.025 as they relate to filling the vacancy in the office of Dallas County Democratic Chair, which vacancy will occur as of midnight, April 1, 2005, by virtue of the current Chair's letter of resignation. The meeting has been called by the resigning chair for 2 p.m. on April 2, 2005, and the call states that one purpose of the meeting is to elect the Chair's replacement. The call also names a Temporary Chair for the meeting.

The Election Code provision you cite clearly vests responsibility to call such a meeting and to appoint a Temporary Chair in the Party Secretary or, upon his failure to act, the State Party Chair. The statute employs *mandatory* language by its use of the word "shall." The Party Rule purports to allow a resigning Chair to call a meeting to fill a vacancy created by the Chair's resignation and to appoint a Temporary Chair. In doing so, the rule employs the *permissive* word "may."

To the extent of a conflict, and there appears one here given the timing of the resignation, the Election Code provision prevails. See Tex. Elec. Code Ann. § 163.003 ("The rules adopted by a political party must be consistent with state law.") Our rules also acknowledge the supremacy of state law. See Art. VI (A) (2).

Charles Soechting, Chairman
Texas Democratic Party

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