TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: March 11, 2019

RE: DECISION OF THE COMPLIANCE REVIEW COMMISSION (CRC) RELATING TO A CHALLENGE FILED IN THE ASSEMBLY DISTRICT ELECTION MEETING (ADEM) IN AD02

INTRODUCTION:

On January 18, 2019 Lesley Ester, a candidate for Executive Board, filed a challenge to eligibility of the Mary Watts. Ms. Watts was the top vote getting Executive Board candidate at the January 12, 2019 ADEM in AD02. Ms. Watts did not finish in the Top 7 for female ADEM candidates and it is Ms. Ester’s contention that she is not eligible to hold the Executive Board position.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

Documents received and reviewed by the CRC associated with the challenge included the following:

2. Testimony submitted by Eric Kirk, Helene Rouvier, and Mary Watts.
3. 2019 ADEM Procedures
4. CDP Bylaws

TIMELINESS:

According to CDP Bylaws, Article XII, Section 4:

“All challenges must be commenced by the filing of a written challenge with the Secretary of This Committee, with copies served on the Chair of This Committee, as well as the appointing person, and the chair of the relevant organization, where applicable no later than seven (7) calendar days after the alleged violation occurred. Upon a showing of good cause, sustained by unanimous vote, the Compliance Review Commission may waive this requirement.”

(All By-Law references are to the California Democratic Party Bylaws, as amended through November 2018, unless otherwise indicated.)

The challenge filed by Ms. Ester was submitted on January 18, 2019. The ADEM in AD02 occurred on January 12, 2019. The submission was within 7-days of the alleged incident, thus the CRC finds the challenge timely.
STANDING:

According to Article XII, Section 3:

“Any party to a challenge must be adversely affected to bring the challenge.”

Ms. Ester was both a candidate and a voter at the ADEM in AD02. The CRC finds Ms. Ester has standing as she would be adversely affected.

JURISDICTION

Article XII, Section 2a states:

“The Compliance Review Commission shall have initial jurisdiction over all challenges and/or appeals arising under these Bylaws.”

The CRC has jurisdiction under Article II (Membership) and Article VI (Assembly District and Assembly District Election Meetings).

FINDINGS:

CDP Bylaws, Article XIII, Section 5 provides that the Party is responsible for publication of selection procedures:

“Section 5. FULL PUBLICATION OF SELECTION PROCEDURES
The Democratic Party shall publicize fully and in such a manner as to assure notice to all interested parties a full description of the legal and practical procedures for selection of Democratic Party Officers and representatives on all levels.”

CDP Bylaws Article VI, 1, h provides the Rules Committee is to promulgate procedures governing the Assembly District Election Meeting:

“h. The Rules Committee of This Committee shall promulgate procedures governing the conduct of the Election Meeting, including the election of 14 delegates to This Committee as set forth in Article II, Section 5, and one representative to the Executive Board, as set forth in Article VII, Section 2(c), which Rules shall include, for candidates for delegate and for candidates for Representative to the Executive Board, a filing fee of $30 (which may be waived due to hardship and such waiver shall be available as an option online and on all written forms), a filing period 30 days prior to the biennial Assembly District Election Meetings and call for the posting of eligible candidate names (to be updated no less than once per week starting with the opening of the filing period) on the Party's website, along with statements by the candidates, with the proviso that such statements be no longer 2400 characters and shall not mention the name of any other candidate. Statements
To determine eligibility of ADEM EBoard candidates, the 2019 ADEM procedures state:

Requirements to Run for Assembly District Representative to the CDP Executive Board

Like ADD candidates, E-Board representative candidates must also file in advance. A candidate for E-Board representative must be qualified to run by either:

A. Having been elected as an ADD at the ADEM, or

B. By being elected/appointed in one of the following categories of membership on the upcoming State Central Committee (in this case, 2017-19):

1) Any elected Democrat to a state or congressional office;

2) The Democratic nominee to any state or congressional office, until such time as a Democrat is elected to that office;

3) The highest vote-getting Democrat in a state or congressional special election in which that Democrat did not win election; or

4) An appointed member pursuant to Article II, section 3 of the CDP Bylaws.

Due to a typo in the procedures, which were adopted by both the Rules Committee and the CDP’s Executive Board, a candidate could assume eligibility based on being elected/appointed in “2017/19.” In this specific case, Ms. Watts was a member of the 2017-19 State Central Committee by virtue of being “An appointed member pursuant to Article II, section 3 of the CDP Bylaws.”

According to the CDP Bylaws Article VI, Section 1:

j. Assembly District Representatives to the State Executive Board:

(1) An Assembly District Representative to the State Executive Board shall be chosen at each Assembly District Election Meeting from among those persons who will be delegates (resident in the respective Assembly District) to the forthcoming biennial convention of This Committee by virtue of being a member of This Committee pursuant to Article II, Section 2b, 2d, 2e; Article II, Section 3; or Article II, Section 5. In the event that no qualified candidate is elected at an Assembly District Election Meeting, then the highest vote-getting candidate for Assembly District Representative shall be provided the opportunity to serve as Executive Board Representative if that person so chooses. If that person declines to serve as Executive Board Representative, then a caucus of those members of This Committee from the Assembly District as described above, shall meet at the next meeting of This
Committee to elect an Assembly District Representative to the State Executive Board, who must be qualified under the same criteria as used for direct election at the Assembly District Election Meeting.

According to the CDP Bylaws, Executive Board members are chosen “among those persons who will be delegates (resident in the respective Assembly District) to the forthcoming biennial convention…”[emphasis added]. In this specific case, Ms. Watts did secure an appointment prior to the February 7, 2019 appointment deadline.

Finally, it should be noted that the appointment paperwork pursuant to Article II, section 3 (Appointed Members) to appoint delegates was made available only a few days prior to the first set of ADEMS, on January 11 & 12. This did not afford a reasonable opportunity to make delegate appointments prior to ADEMS. Such a reasonable appointment opportunity had been available in past ADEM elections and was an implicit assumption in the rules and procedures adopted by the Rules Committee and Executive Board.

ORDER:

Based upon the above facts and Bylaws of the CDP, the CRC makes the following Orders:

1) The CRC denies the challenge for the reasons stated above and finds that Mary Watts is qualified to hold an Executive Board seat from ADEM AD02.

Appeal of this order, if any, must be filed with the CDP Secretary, with copies to the Chair of the CDP State Central Committee, within twelve days of the date of this decision. (Article XII, section 6(a.) Thus, any appeal must be filed on or before March 23, 2019 with the Sacramento office of the California Democratic Party, and shall be an appeal to the next meeting of CDP Credentials Committee upon conclusion of the response period.

Please note that per CDP Bylaws, Article XII, Section 6b, the filing of an appeal shall not stay any decision of the CRC. Parties may additionally respond in person, if so desired, provided there has been a timely filing of an appeal and notice of intent to testify is provided in writing to the Lead Chair of the Credentials Committee by 5 PM on April 4, 2019, at the Sacramento office of the California Democratic Party. The Credentials Committee may accept such additional testimony, written or oral, considering the nature and import thereof, as well as the time available for its proper consideration, as it deems appropriate, in its discretion.

Accordingly, this decision is so ordered, and is in effect, unless, and until, a successful appeal is made, decided, and contrary orders made whether by the CRC, or by the Credentials Committee. CRC shall retain jurisdiction up until the time of an appeal, if any, is heard by the Credentials Committee.

Respectfully submitted by a 6-0 vote of the members of the CRC,

Coby King, Co-Chair, Rules Committee
Lara Larramendi, Co-Lead Chair, Credentials Committee
Garry S. Shay, Lead Chair, Rules Committee
Keith Umemoto, Co-Chair, Credentials Committee
Michael Wagaman, Lead Chair, Credentials Committee
Laurence Zakson, Co-Chair, Rules Committee