MEMORANDUM

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 ASSEMBLY DISTRICT 12

INTRODUCTION:

On January 13, 2019 Abel Lemas, a candidate for delegate to the Democratic State Central Committee and Executive Board representative from Assembly District 12, filed a challenge to the Assembly District Election Meeting (ADEM) which occurred on January 12, 2019.

Specifically, Mr. Lemas alleged (in his words):
- No verification of residency in district or status as a democrat – people outside of AD 12 suspected to have voted
- NO HAND STAMP! Suspicion of people voting multiple times
- Videotaped evidence of ballots being discarded
- Lying and scare tactics at the door - community members being told that they can only vote according to a slate, not for individuals
- Members of a slate had a booth with donuts and coffee which confused participants thinking they were the CADEM officials
- Racist and discriminatory remarks made by candidates on Blue Wave slate before the vote, which should disqualify them as candidates! These comments were made directly to Jarrod Brown (African American) and Randel Montenegro (Filipino). As a Mexican American male, I am outraged at this discrimination!
- A member of the diversity slate (Kendall Smith) was disqualified to run on Friday Night at 8 pm. She was five minutes late on her entry while others who registered for candidacy much later were allowed to stay on
- People working the ballot table wearing either a “blue wave” shirt or sticker...this was a specific slate they were promoting when they should have been neutral
- More ballots were counted than people who showed up!

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

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 Mr. Lemas was submitted on January 13, 2019. The ADEM in AD12 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:

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

Mr. Lemas was both a candidate and a voter at the ADEM in AD12. The CRC finds Mr. Lemas has standing as he 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 shall be published as submitted; no additions, corrections, or other edits shall be made once submitted.”

The challenger alleged, “More ballots were counted than people who showed up!” The Affidavit of Voting Results showed there were 369 attendees casting 368 ADEM ballots and 362 Executive Board ballots.

The challenger alleged, “No verification of residency in district or status as a democrat – people outside of AD 12 suspected to have voted.”

The 2019 ADEM Procedures state,

F. The Convener should oversee the check-in process. With regard to this process:
1) The voter registration check should only be performed for those participants who are unsure or are challenged as to their eligibility. It is not proper to check all participants, especially when such a process would cause long lines in the check-in process. If, in the Convener’s opinion, one person or a group of persons is unduly delaying the registration process by frequent challenges, the Convener may cut off further challenges by that person or group of persons. Before taking this action, the Convener is encouraged, but not required, to call the CDP office for consultation.

The procedures state that voter registration checks should only be performed for those that are unsure of the their eligibility or if their eligibility is challenged. If someone was suspected of being outside of the district, received more than one ballot, or not a Democrat, then they should have been challenged onsite at the ADEM. Additionally, no specific
evidence was provided that any of the participants were not Democrats, voted more than once, or did not live in the district.

The Challenger made additional allegations, which were neither substantiated nor corroborated by the testimony submitted.

In 2017, in a decision regarding a challenge in the ADEM in AD47, and which applies to this case, the CRC found that

“In order to overturn an ADEM result, challengers must meet the standard which demonstrates in a quantifiable way that the conduct and/or actions complained of made a difference in the outcome that would not have been present absent that conduct and/or action. In the testimony submitted, there were a myriad of general allegations, however there was no specific quantifiable allegation, which would have resulted a different outcome. In the testimony submitted, there was none which proved that the actions of those involved were deliberately and purposefully biased, unfair or taken with ill intent. There was no evidence provided that an eligible person was not allowed to vote, was turned away from voting, or due to the circumstances left without voting.

Accordingly, the CRC’s standards, as noted above, were not met in that there was no testimonial or documentary evidence that demonstrated in a quantifiable way that the conduct and/or actions complained of made a difference in the outcome that would not have been present absent that conduct and/or action.”

ORDER:

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

1) The CRC rejects the challenge, as the challengers failed to achieve the standard one would need to invalidate an ADEM result. The original voting results are affirmed.
2) The CRC will forward all testimony submitted to the CRC to the Rules Committee as they consider revising the ADEM Procedures for 2021.
3) The CRC notes that those involved in the leadership of the Party or who participate as candidates for Party positions in the ADEM itself are acting as a public face of the Party and should conduct themselves in a manner reflecting commitment to evenhanded discharge of that responsibility and our Party's values. The CRC finds disappointing some of the alleged behavior of those involved at the ADEM and hopes and expects people conduct themselves appropriately at all Democratic meetings.

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