MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: March 21, 2019

RE: DECISION OF THE COMPLIANCE REVIEW COMMISSION (CRC) RELATING TO A CHALLENGE FILED IN THE ASSEMBLY DISTRICT ELECTION MEETING (ADEM) IN ASSEMBLY DISTRICT 40

INTRODUCTION:

On January 29, 2019 Jody Isenberg, a candidate for delegate to the Democratic State Central Committee from Assembly District 40, filed a challenge to the Assembly District Election Meeting (ADEM), which occurred on January 26, 2019. Six other Democrats joined the challenge. Specifically, Ms. Isenberg alleges candidate Jane Davis was listed on the ballot twice and that affected her vote totals, which in turn affected the outcome. Additionally, the convener did not consider any issues or objections, did not count the ballots twice, and did not correctly tally the results. Finally, the challenger alleges that the number of people attending did not match the balloting, and that there was undue influence by an elected official on the process.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

2. Testimony submitted by Jane Davis, Jeff Green, Ana McNaughton, and Eddie Sanchez.
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.”
The challenge filed by Ms. Isenberg was submitted on January 29, 2019. The ADEM in AD40 occurred on January 26, 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. Isenberg was both a candidate and a voter at the ADEM in AD40. The CRC finds Ms. Isenberg 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 shall be published as submitted; no additions, corrections, or other edits shall be made once submitted.”

Ms. Isenberg alleges “The convener did not count the ballots twice and, therefore, the vote tally was not audited…the votes were not correctly tallied.”

The 2019 ADEM Procedures state,

C. The ballot counting should be done twice. If more than one group is counting, rotate the ballots among the groups.

According to the ADEM procedures, the ballot counting should be done twice. Since that was not done, the CRC requested the CDP staff to conduct a full recount of the ballots. The results from the CDP staff recount confirmed the top-7 self-identified females and top-7 non-identified females, as they were announced onsite. Additionally, the recount also confirmed the winner of the Executive Board as announced onsite.

Ms. Isenberg further alleges Ms. Jane Davis was listed on the ballot twice and that affected her vote totals, which in turn affected the outcome.

The CDP staff confirms that Jane Davis was listed twice on the ballot as “Jane Givens Davis” and “Davis Jane.” The CDP staff inspected all the ballots containing votes for Jane Davis and found that there was a total of 232 ballots that voted for one or both of the Jane Davis entries. Of those ballots, 20 contained votes for both names listed above. Counting those 20 ballots with two votes only once, the final total for Jane Davis is 232. It should be noted that none of the 20 double voted ballots were considered over votes, as there weren’t more than 14 votes on any of them.

It should also be noted that the 7th non-self-identified female’s race was very close with CDP staff confirming Jacob Kleespies received one more vote than Eddie Sanchez received which was the same results as announced onsite.

Ms. Isenberg alleges the number of people attending did not match the balloting. According to the Affidavit of Voting Results, 496 signed in to the ADEMs and 476 submitted ADEM ballots. This difference between sign-ins and actual ballots submitted is not unusual as some people sign in as visitors, volunteers from other districts, or determine they are not eligible. Most importantly, there is no evidence presented that any ballots were actually missing.

Lastly, Ms. Isenberg states the convener did not consider any issues or objections and claimed the undue influence of an elected official in the process.

In 2017, the CRC in a decision regarding the ADEM in AD47, and which applies to this case 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 submitted 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 necessary 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.

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 April 2, 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 14, 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