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 57

INTRODUCTION:

On January 19, 2019, Henry Huerta and Zenaida Huerta, both candidates for delegate to the Democratic State Central Committee from Assembly District 57, filed a challenge to the Assembly District Election Meeting (ADEM) which occurred on January 12, 2019.

Specifically, the challengers allege:
- That non-Democrats and non-residents of Assembly District 57 were allowed to vote, and
- That a candidate on an opposing slate assaulted Ms. Huerta and that their election activity was inhibited due to the harassment of Ms. Huerta.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

2. Testimony submitted by Michelle Alvarado, Caro Jauregui, Chris La Farge, and Steph Terrazas.
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 the complainants was submitted on January 19, 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:

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

Both complainants were candidates and voters at the ADEM in AD57. The CRC finds the complainants have standing, as they 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.”

With regards to allegations of assault and harassment, The CRC does not find jurisdiction under the Bylaws of The Party. The appropriate entity to deal with the actions alleged by Ms. Huerta would appear to be local law enforcement.

For all other allegations, 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 complainants alleged, non-Democrats and non-residents of Assembly District 57 were allowed to vote.

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 themselves 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 participants (voters) who are unsure of their eligibility or if their eligibility is challenged. If someone was suspected of being outside of the district or not registered as a Democrat, then they should have been challenged onsite at the ADEM.

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.”

In an email to the CDP staff, Mr. Huerta states:
“Told you my opinion that the practice of not allowing someone to copy or photo the voting list puts persons at a financial disadvantage since persons requesting records need to travel to Sacramento and incur expenses to review records that will prove their challenge.”

The CRC appreciates and takes seriously the concerns about the absence of a procedure to accommodate those for whom the in-person review of election materials at the Party's Sacramento office poses a hardship. This is particularly true because time constraints, volunteer membership and competing demands on the Party’s budget and staffing means that the CRC is not, and cannot be, an independent investigative body, but, rather, is a body charged with reviewing the challenge and supporting evidence provided by the challenger and other interested parties. As a result, as part of its order, the CRC will advise the Rules Committee to look at ways to address the claims of hardship relating to the review of election materials.

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 especially those involving hardship as it relates to the review of election materials.
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 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