MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: December 19, 2018

RE: DECISION OF THE COMPLIANCE REVIEW COMMISSION (CRC) RELATING TO A CHALLENGE FILED BY MS. ESTER

INTRODUCTION:

On December 5, 2018, Ms. Lesley Ester RN, a candidate for Assembly District Delegate in 2nd Assembly District, filed a challenge relating to the location of the ADEM meeting, which is located in Santa Rosa. Ms. Ester alleges that the Santa Rosa location “discriminates against rural voters and potential ADEM candidates with limited means and those with disabilities that make long car journeys arduous, including disadvantaged Native American populations.”

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

Documents received and reviewed by the CRC associated with the challenge included the following:
1. Challenge by Ms. Ester submitted to the CRC on December 5, 2018
2. Response submitted by Regional Director Debra Broner on December 17, 2018.
4. Procedures for 2019 Assembly District Election Meetings (ADEMs)
5. CDP Bylaws.

TIMELINESS AND JURISDICTION:

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.”
According to the challenge, the posting the website of 1 (one) ADEM location in Assembly District 2 occurred on November 30 and Party staff informed Ms. Ester that there would only be one location on December 3, 2018. The challenge filed by Ms. Ester was submitted on December 5, 2018, which is within seven (7) calendar days of both events previously noted and thus timely.

**STANDING:**

According to Article XII, Section 3:

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

Ms. Ester is a candidate for Assembly District Delegate in Assembly District 02 and thus has standing to bring this challenge.

**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 in this matter under CDP Bylaws, Article VI: Assembly Districts and Assembly District Election Meetings.

**FINDINGS:**

Ms. Ester, an Assembly District Delegate Candidate for Assembly District 02, filed a challenge relating to the location of the Assembly District Election Meeting (ADEM) in Santa Rosa. Ms. Ester contends that the procedures require the location to be centrally-located geographically within the Assembly District.

**Procedures for 2019 Assembly District Election Meetings (ADEMs):**

A. Location: The ADEM location must fulfill the following characteristics:

1) Attempt to be Centrally-located with respect to the Assembly District, especially for rural districts.

2) Location MUST be ADA-compliant. This means that the location is accessible to persons with disabilities. “Disabilities,” with respect to an individual, means a physical or mental impairment that substantially limits one or more of the major life activities of such individual. A location with stairs, steps, or any impediment to wheelchair access despite the presence of someone available to assist or pick up someone in a wheelchair is not considered accessible.

3) Easy to describe location and easy to find for participants.
In reviewing the procedures, the CRC notes it is clear that the convener has the sole responsibility and discretion to choose the location based upon numerous factors including, but not limited to: voter density, geography, terrain, closeness to major highways or roadways, past precedent, etc. “Centrally-located” can’t be based solely off geography alone as the goal is to ensure that the most people participate as possible and considering where people/Democrats actually live, as the convener did, is a reasonable standard.

**Procedures for 2019 Assembly District Election Meetings (ADEMs):**
The “Convener” (see the next section, “Who Sets Up the Meeting”) may request a variance from the date, time, and registration period duration of the Election meeting as set out in Article VI, Section 1.a.(5). A few notes about this:
A. In order to request a variance from the date, time, and registration period duration specified in the By-Laws or to allow for the holding of the election meeting simultaneously at more than one site in the Assembly District an application showing “good cause” must be filed with the State Chair by November 1, or the next business day if the date falls on a state holiday or weekend, of the year preceding the holding of the Election Meeting.
B. "Good cause" may include the necessity of traveling very long distances, traveling in heavy traffic through dense population centers, or traveling in hazardous weather conditions.
C. The State Chair must reply by November 10, or next business day if the date falls on a state holiday or weekend.

**CDP Bylaws, Article VI, Section 1.a.(5), states:**
The Convener of the Election Meeting may request a variance from the date, time, and registration period duration of the Election Meeting as set out in Article VI, section 1.a.(1) to another date and time during the second weekend in January in odd-numbered years, or to allow for the holding of the Election Meeting simultaneously at more than one site in the Assembly District, or to modify the duration of the registration period, by filing an application with the State Chair by November 1, or next business day if the date falls on a state holiday or weekend, of the year preceding the holding of the Election Meeting showing good cause for such a variance. "Good cause" may include the necessity of traveling very long distances, traveling in heavy traffic through dense population centers, or traveling in hazardous weather conditions. The State Chair must reply by November 10, or next business day if the date falls on a state holiday or weekend. It is the intent of the Executive Board that the two weekends be utilized to spread the Election Meetings within a particular Region over the two different 28 weekends. It is also the intent of the Executive Board that the provision for the simultaneous holding of more than one meeting is meant to apply primarily to the very large districts connected by often-closed mountain passes.

According to both the CDP Bylaws the ADEM Procedures, the convener can request a variance, which would allow a second site. In the case of ADEMs in AD02, a variance was never submitted because in the convener’s judgment a variance wasn’t necessary.

The role of the CRC is not to substitute its judgment for that of the Convener, but to assess the consistency of the Convener's actions with the applicable rules and procedures.
The CRC agrees with the Convener choosing a site in the most populous portion of the Assembly District. However, the intent of the provision allowing multiple sites were specifically designed for geographically large districts such AD 2; and, it is clear "good cause" for doing so has and continues to exist. In particular, the Convener's determination to locate a site in the most populous portion of the Assembly District, located further south than either of the prior locations, only increased the good cause to request a variance. Thus, the CRC concludes when the convener made the determination to locate a site in Sonoma she should have requested a variance allowing for additional locations, and failing to do so contravenes the intent of the Bylaws.

ORDER:

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

1. The CRC explicitly rejects the conclusion Ms. Ester’s claim that the term "centrally located" refers solely to geography. Choosing a location is up to the discretion of the convener because there are so many factors to weigh and locals' familiarity with the terrain and location of Democratic voters requires considerable deference.

2. The CRC believes the goal is to make participating in ADEMs as easy as possible for the most number of voters. The CRC directs the convener identify at least one additional location in Assembly District 02 consistent with CDP Bylaws and the 2019 ADEM Procedures by Sunday, December 23 and to send the location information to the CDP Staff in order for it to be posted on the website Monday, December 24.

3. The CRC notes that the convener may not have had all of the correct facts in terms of participation statistics from past ADEMs when making her decision.

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 December 31, 2018 with the Sacramento office of the California Democratic Party, and shall be an appeal to the next meeting of CDP Rules Committee upon conclusion of the response period.

Please note that per CDP Bylaws, Article XII, Section 7b, 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 Rules Committee by 5 PM on January 12, 2019, at the Sacramento office of the California Democratic Party. The Rules 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 Rules Committee. CRC shall retain jurisdiction up until the time of an appeal, if any, is heard by the Rules 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