MEMORANDUM

TO: All Interested Parties

FROM: Compliance Review Commission (CRC)

DATE: May 29, 2019

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

INTRODUCTION:

This matter concerns the filling of a vacancy on the Riverside County Democratic Central Committee (RCDCC), from the 60th AD, Mr. Kempe alleges:

1) A violation of the Brown Act and their bylaws,
2) RCDCC forced a member to leave the room,
3) That his right of privacy was violated in that the fact he had a dues waiver was divulged to the members of the RCDCC, and
4) Jacob Daruvala paid his dues but was not approved by the body as an alternate

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

2. Testimony submitted by Jacob Daruvala, Agi Kessler, John Kopp, Maja Rizvi, Steven Ruth, Raj Singh
3. Riverside County Democratic Central Committee Bylaws
4. California Democratic Party 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 actions took place on March 30, 2019 (60th AD Delegation recommendation vote) and ultimately April 8, 2019 (RCDCC vote) and the matter was filed with the CRC on April 10, 2019, within seven (7) days of the final act complained of, and is therefore timely, at least as to the latter matter.

**STANDING:**

According to Article XII, Section 3:

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

The challenger was a candidate for a vacancy on the RCDCC and failed to win the seat, accordingly he was adversely affected and has standing.

**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 XIII, Section 1 (Public Meetings), Section 3 (Notice of Agendas and Meetings), 5 (Full Publication of Selection Procedures), 6 (Timely Publication of Selection Procedures), and 7 (Timely Publication of Selection Procedures). Clearly Notice is implicated in this challenge, further, the right of Selection implies the right of Removal thus those sections are as well.

**FINDINGS:**

1. An alleged violation of the Brown Act. However, pursuant to the Policy Statement by the Rules Committee of the California Democratic Party on the Open Meeting Rule adopted in Committee –July 14, 2018:

> “The Democratic Party is not bound by the strictures of the Brown Act which limits members of a governmental decision-making body . . .”

2. Forcing a member to leave the room, which would impinge on the Open Meeting Rule in that:

> “The Democratic Party is the party of inclusion. The Party’s so-called “open meetings rule” is intended to promote the principle that all members of the community who identify with the Democratic Party should be afforded meaningful, realistic and practical opportunities to access and, where applicable, participate in the Party’s meetings, functions and events. This
means that Democratic Party organizations should undertake all reasonably practicable steps to ensure that their public meetings are open to all members of the Democratic Party, and should also make reasonable accommodations for persons whose ability to attend or participate in a meeting might be hampered by their disabilities or by physical or other barriers to such attendance or participation, particularly those barriers which adversely affect disabled persons.”

However, merely asking members under consideration for a vacancy to leave the room, provided they are allowed to still vote on the matter, if they have the right to vote, is not, in itself, a violation of this provision. Further, there is no indication in the record that there was any opposition to this request made at the time.

3. The Challenger argues that his right of privacy was violated in that the fact he had a dues waiver was divulged to the members of the RCDCC. However, the RCDCC Bylaws do not guarantee privacy, only confidentiality, and there is a difference:

“. . . confidentiality refers to personal information shared with an attorney, physician, therapist, or other individual that generally cannot be divulged to third parties without the express consent of the client. On the other hand, privacy refers to the freedom from intrusion into one's personal matters, and personal information.”

and

“Confidentiality is an ethical duty, privacy is a right rooted in common law.”


However, the RCDCC did not share information about the Challenger with third parties, but rather only with itself.

4. There was a complaint that one Jacob Daruvala paid his dues but was not approved by the body as an alternate. However, it was pointed out this was a renewal, not a new alternate member and thus did not have to be “re-approved”.

ORDER:

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

1) The challenge is rejected as the challenger failed to raise any of his objections at the time the alleged violations occurred and thus has failed to exhaust all local administrative remedies.
2) The CRC reiterates that the Brown Act does not apply to the California Democratic Party nor County Committees. The Brown Act only applies to a governmental decision-making body.
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 June 10, 2019, 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 June 22, 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