INTRODUCTION:

On November 21, 2018, Ms. Diddo Clark submitted a challenge relating to a censure motion passed by the Democratic Party of Contra Costa County (DPCCC) at a meeting on September 20, 2018. Ms. Clark alleges the censure motion, which was made at a meeting at which she was not in attendance, was made without notice, was not urgent and did not include a specific allegation of facts or supporting evidence.

DOCUMENTS INITIALLY RECEIVED AND REVIEWED:

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

1. Challenge by Mr. Clark submitted on November 21, 2018
2. Testimony in opposition submitted by Jeff Koertzen.
3. Bylaws of the Democratic Party of Contra Costa County
4. Bylaws of the California Democratic Party

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.)

Ms. Clark was made aware of the censure motion on November 14, 2018 when the minutes from the September 20, 2018 meeting were disclosed to the membership for adoption at the November 15, 2018 county party meeting. Ms. Clark tried to exhaust her local remedies by requesting reconsideration of this issue at the next regular meeting of the county party on
November 15, 2018. The challenge was filed within seven (7) days of the county party meeting on November 15, 2018 and thus the challenge is timely.

**STANDING:**

According to Article XII, Section 3:

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

Ms. Clark is a member of the DPCCC, thus she 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.”

Although many allegations were raised by the Ms. Clark, the only jurisdiction the CRC finds in this challenge is under Article XIII (General Policies) as it relates to notice, and this decision is limited to those issues.

**FINDINGS:**

The censure of Ms. Clark was not noticed on the agenda the DPCCC distributed prior to the meeting on September 20, 2018.

According to the DPCCC Bylaws, Article IV, Section 2:

“c. As a Level 2 notification, agendas and minutes of the previous Regular Meeting, should be distributed to members at least ten (10) days before each Regular Meeting.”

According to the DPCCC Bylaws, Article IV, Section 7:

(b) (2): Level 2 notifications are those that should be sent in a timely manner. Failure to send a Level 2 notification in the timeline defined, however, does not postpone the event or issue being addressed.

The notice, while less than 10 days, would not stay the censure from being added to the agenda under the DPCCC Bylaws.

According to the CDP Bylaws, Article XIII:

“Section 3. NOTICE OF AGENDAS AND MEETINGS The time, place and agendas of all public meetings of the Democratic Party on all levels shall be publicized fully and in such manner as to assure timely notice to all interested persons. Such meetings must be held in places accessible to all Party members and large enough to accommodate all interested persons.”
The CRC does not opine on the substance of the censure motion. The CRC also does not find the DPCCC Bylaws allowance for less than 10 days-notice in certain circumstances in and of itself violates the CDP Bylaws. However, despite the good-faith reasons cited by Jeff Koertzen in his response as to why the matter was considered urgent, to provide less than 24 hours-notice to a member facing potential censure is not in accordance with the CDP Bylaws. The CRC specifically notes Mr. Koertzen’s response states such a censure could be a step towards future suspension or expulsion, increasing the importance of timely notice.

**ORDER:**

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

1. The challenge is upheld due to a lack of proper notice. Adding an agenda item, within 24 hours, that could directly adversely affect the rights of a member violates the notice provision of the CDP.
2. This order does not stay the DPCCC from considering this item in the future if it is noticed in a timely manner.

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 February 6, 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 February 18, 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. Member Laramendi did not participate in the meeting, but concurs with the decision.

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