

Proposed Amendment to the Rules for the Government of the
Kings County Democratic County Committee
Relating to Creation of Member at Large Positions and Filling Vacancies

WHEREAS the Rules for the Government of the Kings County Democratic County Committee presently provide for the composition of the County Committee by the election of two or four members from within each Election District, “equally divided between men and women,” and

WHEREAS such provision effectively precludes nonbinary Democrats from serving as members of the County Committee, and

WHEREAS on November 23, 2020, the Kings County Democratic Task Force on Gender Discrimination and Representation, appointed by Executive Committee Chair Rodneyse Bichotte in August 2020, by a vote of nine in favor, four against, and one abstention, following due deliberation, did adopt a resolution recommending that the Executive Committee of the Kings County Democratic County Committee amend the said Rules for the Government of the Kings County Democratic County Committee as hereinafter specified, and

WHEREAS the election of members to the County Committee from within Election Districts for the present term of office ending with the year 2022 organizational meeting took place at the June 23, 2020 Primary Election without nonbinary individuals being able to seek election thereat, but the Task Force deemed it appropriate for this to be remedied on a temporary basis insofar as the current County Committee is concerned, and

WHEREAS the widest and most diverse participation of members of the County Committee -- including the nonbinary individuals elected to fill vacancies -- is in the interests of the Democratic Party in Kings County, and the election by the Executive Committee of Democrats to fill vacancies in the membership of the County Committee existing prior to the time of the organizational meeting of the County Committee will maximize the participation of those attending the said meeting, who otherwise would not be able to attend and participate were they elected at the organizational meeting itself, and

WHEREAS said recommendation of said Task Force was made after having considered the issue of representation on the County Committee at seven meetings, which included presentations from academic and other experts, and is continuing its proceedings for the purposes of recommending a rule amendment embodying a permanent modification of the provisions governing the membership composition of the County Committee which would take effect with the process of electing members in the year 2022, and

WHEREAS the current COVID-19 pandemic necessitates modification of certain procedures in the interests of minimizing in-person human interactions,

NOW THEREFOR, the Executive Committee of the Kings County Democratic County Committee does hereby ADOPT the following Amendment to the Rules for the Government of the Kings County Democratic County Committee, which in pertinent part would (1) facilitate

nonbinary Democrats being able to serve as County Committee members-at-large by Assembly District until the end of the current term of office, but without having to identify themselves by sex or gender as is presently mandated with respect to members representing individual Election Districts, (2) deem said member-at-large positions as currently existing vacancies, and (3) provide for the filling of all County Committee vacancies by the Executive Committee prior to the County Committee organizational meeting, insuring that persons elected to fill vacancies can fully participate in said organizational meeting:

(1) Article II [The County Committee: Membership] of the Rules for the Government of the Kings County Democratic County Committee is amended by adding the following §5 to read as follows:

§5. (a) Notwithstanding anything herein to the contrary in these Rules or in the Election Law, in addition to members representing Election Districts, there shall be four members at large of the County Committee for each Assembly District. Said members at large shall be enrolled Democrats residing within the Assembly District for which they are elected, without regard to how they identify on the gender spectrum and who need not have to declare a male or female sex designation. Such membership positions shall be treated as vacancies as of the date that this section is enacted.

(b) Each member at large of the County Committee shall be entitled to cast one vote at any meeting of the County Committee, at any meeting of the Assembly District Committee of the Assembly District which such member at large represents, and at any meeting of County Committee members provided for in Article VIII, Section 5, Subdivision (b) of these Rules when the Assembly District which said member at large represents contains at least one Election District within the respective political subdivision.

(c) This section shall expire, and the terms of office of the members at large provided for herein shall terminate, at the commencement of the organizational meeting of the County Committee members elected in the year 2022.

(2) Article II [The County Committee: Membership] of the Rules for the Government of the Kings County Democratic County Committee is amended by adding the following §3a to read as follows:

§3a. (a) Notwithstanding anything herein to the contrary in these Rules or in the Election Law, vacancies in the membership of the County Committee existing prior to the time of the organizational meeting of the County Committee shall be filled for the unexpired term by the Executive Committee. Nominations to fill such vacancies shall be made in writing by either of the following methods: (i) upon a majority vote of the Assembly District Committee in and for the Assembly District wherein such vacancy occurs, upon certification by the Chairperson and Secretary of the said Assembly District Committee, (ii) upon the written nomination of five members of the County Committee elected from Election Districts within the Assembly District wherein such vacancy occurs, or (iii) upon the written nomination of a State Committee member

elected from the Assembly District wherein such vacancy occurs. Said written nominations shall be submitted to a person at a location and address, by a date and time certain, designated by the Chair of the Executive Committee.

(b) This section shall expire at the commencement of the organizational meeting of the County Committee members elected in the year 2022.

(3) In enacting the within provisions, the Kings County Democratic County Committee relies on its rights guaranteed by the First and Fourteenth Amendments to the United States Constitution, including but not limited to those explicated in decisions of the United States Supreme Court holding that a political party possesses a right to limit its membership as it wishes, *New York State Bd. of Elections v. Lopez Torres*, 552 U.S. 196, 202 (2008); a right to structure its internal party processes, *id.* at 203; the freedom to identify the people who constitute its associating members, *Democratic Party of United States v. Wisconsin ex rel. La Follette*, 450 U.S. 107, 122 (1981); the freedom to join together in furtherance of common political beliefs and the right to broaden the base of public participation in and support for its activities, *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 214 (1986); and the right to determine the boundaries of its own association and the right to choose the structure which best allows it to pursue its political goals, *id.* at 224. Restrictions limiting a political party's discretion in how to organize itself, conduct its affairs, and select its officers infringes upon the party's right to free association. *Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214 (1989).