



Republican Party of Virginia
www.rpv.org

May 10, 2019

MG Gregory A. Schumacher, USA (ret.)
Chairman
Fauquier County Republican Committee
PO Box 925
Warrenton, VA 20188

VIA E-mail

Dear Chairman Schumacher:

You requested my interpretation of the Party Plan's provisions relating to notice for a convention, particularly the effect of changes to the terms of a convention call.

Article VIII, Section A, para. 1 provides, in relevant part, "All calls for State, District, and Legislative District Conventions, shall be issued by the appropriate Chairman to the included Unit Chairman not less than thirty (30) days ... prior to the Convention date and published in their entirety on the [RPV] website." By contrast, mass meetings, party canvasses, and unit conventions require 7-days notice (or 15-days notice in a presidential election year). *See* Art. VIII, Sec. A, para. 2. The need to commit substantial time for travel and participation in a convention and, in some cases, to secure overnight accommodations provide the underlying policy rationale for the distinction between large multi-unit conventions and local unit meetings, canvasses, and conventions.

There are occasions, such as the present public health emergency, when an official committee needs to make changes to the terms of a convention call. You ask whether an amended call must meet the 30-day notice requirement based on the date of amendment.

I believe that an amended call that makes changes to one of the four most important terms of a call must meet the 30-day notice requirement based on the date of the amendment. In reaching my opinion, I rely on interpretive cannons used by my predecessors and supported by our parliamentary authority, *Robert's Rules of Order*,

Newly Revised, prior general counsel opinions, and consideration of the underlying policy rationale for the notice requirement.

Three terms of a convention call are sufficiently important that they must be determined by official committees—the time, place and basis of representation. *See* Art. III, Sec. D, para. 1(c); Art. IV, Sec. D, para. 1(b); Art. V, Sec. D, para. 1(b); Art. VI, Sec. D, para. 1(b). A fourth term, pre-filing requirements, must be adopted by an official committee, but pre-filing requirements are optional. *See* Art. VIII, Sec. A, para. 3.

First, the canon of statutory construction *expressio unius est exclusio alterius*, translated as “the expression mention of one thing excludes all others,” also known as the implied exclusion rule.¹ This doctrine is not only a canon of statutory interpretation, it is also set forth in our parliamentary authority, *Robert’s Rules of Order, Newly Revised (11th ed.)* (“*RONR*”) as one of several principles for an organization to use in interpreting its bylaws:

(4) *If the bylaws authorize certain things specifically, other things of the same class are thereby prohibited.* There is a presumption that nothing has been placed in the bylaws without some reason for it. There can be no valid reason for authorizing certain things to be done that can clearly be done without authorization in the bylaws, unless the intent is to specify the things of the same class that may be done, all others are prohibited. *RONR*, § 56, p. 589, l. 33-p. 590, l. 5.

The principle applies here because one of the important terms—location—has a rule providing an exception. Article VIII, Section M provides, in relevant part:

If after a call for a Mass Meeting, Party Canvass, or Convention, it shall be determined that the size of the building designated in the call shall be inadequate relative to the anticipated attendance or the building shall be unavailable, the location may be changed by the Chairman issuing the call to a more adequate, but equally accessible, building provided that written notice of the new location be posted at the location originally selected for the meeting, and further provided that those attending are allowed sufficient time to be present at the alternate location and to participate in the Mass Meeting, Party Canvass, or Convention.

There is no similar rule that would allow for an exception to the notice requirement for changes in date, basis of representation, or pre-filing requirements.

¹ In *Va Dept. of Health v. NRV Real Estate, LLC*, 278 Va. 181 (2009), the Virginia Supreme Court refers to the rule, “In interpreting statutory language, we have consistently applied the time honored principle *expressio unius est exclusion alterius*. That rule recognizes the competence of the legislature to choose its words with care. In applying it, we hold that the mention of specific items in a statute implies that all items omitted were not intended to be included.” (internal citations omitted).

Second, opinions from my predecessors support this approach.

After a rather confusing series of events, William A. Forrest, Jr., found that amending a call without providing the required notice voids the meeting held pursuant to that call. A unit set the terms of a call, including specific dates for precinct caucuses (a formerly authorized process that today would be a precinct mass meeting or precinct party canvass) to elect delegates to a unit convention set for another specific date. Despite the unit's decisions, its chair published a call with different dates for the precinct caucuses and unit convention. The precinct caucuses were held on the day set by the chairman. Both Mr. Forrest and the unit committee found those caucuses to be improperly held. The unit committee went on to set new dates for precinct caucuses that would have met the 7-day notice requirement for caucuses, but it did so at a meeting which was held without the requisite notice. William A. Forrest, Jr., *General Counsel Opinion*, May 3, 1984.

In an opinion related to a nominating process for a special election, Lee Goodman notes that an amended call may correct a technical error (the omission of a polling place in one unit for a legislative district party canvass), but that a call making a material change must meet the notice requirement. Lee E. Goodman, *General Counsel Opinion*, April 13, 2010.

Other prior opinions support the proposition that changes to correct an error in a call may be made without resetting the clock on notice requirements. William A. Forrest, Jr., *General Counsel Opinion*, May 14, 1982 (holding that errors in a call, *i.e.*, listing the wrong day of the week with a date and listing a pre-filing date as May instead of March, were not material errors and did not vitiate the call); William A. Forrest, Jr., *General Counsel Opinion*, Feb. 9, 1988 (holding that an error in a delegate table subsequently corrected does not vitiate a call). There are no similar opinions that find that amending a call to change one of the four important terms may be made without complying with the notice requirement.

Third, the same policy rationale that underly the 30-day notice requirement for a convention—the need to commit substantial time for travel and participation in a convention and, in some cases, to secure overnight accommodations—still apply to a changed convention. While a policy rationale is not ordinarily relevant to interpreting a bylaws provision, it is an appropriate tool when there is an ambiguity in the bylaws. According to *RONR*, “[t]he interpretation should be in accordance with the intention of the society at the time the bylaw was adopted, as far as this can be determined.” §56, p. 588, ll. 31-33.

Finally, I note that State Central Committee recently adopted temporary emergency provisions in Article XII and did not include any change to the notice requirements for conventions.

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I would observe that, in addition to the change in location, which may be made without 30-day notice under Article VIII, Section M, as described above, any change in the format of the convention made under the recently-enacted emergency provisions in Article XII would not require 30-day notice. For example, if a traditional convention is scheduled for July 1 and an official committee changes it to an unassembled or bifurcated convention, that decision would not require another 30-day notice; it could be made, for example, on June 15, without requiring a change to the July 1 date.

This letter constitutes a ruling or interpretation of the Party Plan. Pursuant to Article X, it may be appealed to the Executive Committee or directly to the State Central Committee within thirty days of the date it is posted on the RPV website.

Sincerely,



Chris Marston,
General Counsel