

Republican Party of Virginia
115 East Grace Street
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Patrick M. McSweeney
General Counsel

December 3, 2014

By electronic mail

Ms. Diana Shores
Chairman
Cumberland County Republican Committee
gopdiana@yahoo.com

Dear Ms. Shores:

You have requested my ruling or an interpretation of the State Party Plan with respect to ten specific matters. I have restated each particular request as I respond below.

1. You ask whether the members of the Campbell County Republican Committee and the Committee Chairman, Les Williams, who were serving in those positions as the March 20, 2014, Mass Meeting of the Campbell County Unit was convened have been reinstated to those positions as a consequence of the August 16, 2016, decision of the State Central Committee granting an appeal challenging the validity of the actions taken at that Mass Meeting. The answer to that request is that the Chairman and Committee members in office when a new Chairman and new members of the Committee were purportedly elected at the March 20, 2014, Mass Meeting automatically resume those offices as a consequence of the action of the State Central Committee on August 16, 2014. The decision of the State Central Committee is final and binding on Party members. State Party Plan, Art. X, Section C. A challenge to that decision in the Circuit Court for Campbell County was recently dismissed by that court.

2. You ask whether any members elected to the Committee at the now-invalidated Mass Meeting held on March 20, 2014, are now members of the Committee in light of the August 16, 2014, decision of the State Central Committee. This request is answered by my ruling set forth in the previous paragraph. If any member who was serving as a member before the election at the Mass Meeting was also elected to the Committee at the now-invalidated Mass Meeting, that member plainly continues to serve as a consequence of his or her election to membership before the invalidated Mass Meeting.

3. You ask whether Les Williams, the Committee Chairman in office before the election of a new Chairman at the now-invalidated Mass Meeting, is a voting member of the Fifth Congressional Republican Committee. The answer is that Mr. Williams as the current Committee Chairman is a voting member of the District Committee. State Party Plan, Art. IV, Section A(2).

4. You ask whether John Ferguson, who was purportedly elected Committee Chairman at the now-invalidated Mass Meeting held on March 20, 2014, has a vote on the District Committee. The answer is that Mr. Ferguson does not exercise voting privileges on, and is not a member of, the District Committee. State Party Plan, Art. IV, Section A.

5. You ask whether the current Committee Chairman, Les Williams, and the current members of the Committee, who have been reinstated by the August 16, 2016, decision of the State Central Committee, may call a new Mass Meeting and issue such a call. The obvious answer is that they may do so. State Party Plan, Art. VI, Section D(1)(b) and (2)(b).

6. You ask whether the District Committee can grant voting privileges to additional Vice Chairmen of the District Committee whose positions have not been established by the District Bylaws. In several previous rulings by my predecessors, the language of Article IV, Section A, Paragraph 7 has been construed to authorize a district committee to grant voting rights to its vice chairmen, secretary and treasurer if it does so expressly in its bylaws. *E.g.*, General Counsel's ruling dated April 25, 2014; General Counsel's ruling dated December 10, 2009. The Bylaws of the Fifth District Committee provide: "The Vice-Chair(s), Secretary, and Treasurer shall be elected by the District Committee for a two-year term at the first meeting following the Biennial District Convention." Article III, Section 2. The State Party Plan has a virtually identical provision. Art. IV, Section B.2. I am advised that a single Vice Chairman was elected following the 2014 District Convention; therefore, there is no vacancy or vacancies in the office of Vice Chairman to be filled. Any additional positions entitled to voting privileges must be established in the Bylaws of the District Committee and filled by vote of the District Committee in accordance with the provisions of Article IV, Section B.2 of the State Party Plan and Article III, Section 2 of the Bylaws. Amendments to the District Committee Bylaws must be properly and timely noticed in a call for a Committee meeting. I conclude, therefore, that the District Committee cannot establish additional Vice Chairmen positions at the December 7, 2014, meeting and elect additional Vice Chairmen at that meeting.

7. You ask whether a call for a District Committee meeting to elect Vice Chairmen who will have voting privileges is valid. A call is not invalid in its entirety simply because action on one of the items to be considered at the meeting would be in violation of the State Party Plan. The remaining items may be considered and acted upon at a called meeting.

8. You ask whether the District Committee can take jurisdiction over a call for a Mass Meeting of the Campbell County Republican Unit. The answer is that the District Committee has no jurisdiction over that matter in the circumstances here. The State Party Plan gives the Campbell County Republican Committee the authority to approve a call for a mass meeting. Art. VI, Section D(1)(b). Unless the Committee is non-functioning, the District Committee has no power to appoint a new Committee or a new Unit Chairman. Art. IV, Section D(1)(e). The District Committee has not made a determination that the County Committee has failed to function and, under the circumstances, may not be justified in doing so. The current

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Committee Chairman has requested the assistance of the State Party Chairman, Executive Director and General Counsel in securing the return of records and checkbook of the County Committee from the Chairman who was elected at the invalidated March 20, 2014, Mass Meeting and who, according to the current Unit Chairman, has refused to communicate with the current County Chairman. If the account of the current Unit Chairman is accurate and if the District Chairman has refused to order the individual who was elected Unit Chairman at the invalidated Mass Meeting to return the Committee records and checkbook when requested to do so by the Executive Director, the District Committee cannot rely on the provisions of Article IV, Section D(1)(e). Any failure of the current County Committee to function is due, at least in part, to the asserted misconduct of the Unit Chairman elected at the invalidated March 20, 2014, Mass Meeting and the District Chairman to assure that the records are returned to the current Unit Chairman and Committee so that the Committee can function effectively. Without the records containing the email addresses of Committee members, the current Unit Chairman has been required to reconstruct that list in order to issue a call for a Committee meeting at which a call for a new Mass Meeting could be considered and approved by the Committee.

9. You ask whether an individual who is not currently an active member of a unit committee wholly or partially within the Fifth Congressional District can serve as a voting member of the District Committee. Article III(5) of the Bylaws of the Fifth Congressional District Republican Committee provides that only those who are active members of a unit committee within the District in whole or in part can serve as a voting member of the District Committee. For that reason, the answer to your request is that an individual who is not an active member of a unit committee within the District in whole or in part is ineligible to serve on the District Committee.

10. Finally, you ask whether the call for a District Committee meeting issued by John Berkley, the Fifth District Committee Chairman, is invalid as untimely. The answer is provided by Article VII, Section B.1 of the State Party Plan, which requires that a call for a meeting of an official committee be issued and published "not less than one week" in advance of the called meeting. As the call was issued and published on November 29, 2014, at 10:48 p.m. for a meeting to be held on December 7, 2014, at 3:00 p.m., it does not comply with the requirement of Article VII, Section B.1 and is, therefore, invalid.

If you have any questions about my ruling, please let me hear from you.

Very truly yours,

Patrick M. McSweeney
General Counsel

cc: RPV Chairman
RPV Executive Director