



Republican Party of Virginia
www.rpv.org

May 13, 2016

Tom Cherry, Chairman
Republican Party of Norfolk

VIA E-mail

Dear Chairman Cherry,

By e-mail dated May 4, 2016, you requested a ruling regarding the call for the 2016 Second District Republican Convention's provision regarding military members. I have received several other inquiries regarding the call and its implementation as it relates to these provisions. In this letter, I address the two provisions dealing with military members in the State Party Plan and how they impact selection of delegates to the Convention.

The provisions of the Party Plan relating to military members are quite new and, after their initial adoption, have already been amended, most recently in December 2015. Unfortunately, as a result, there has been some confusion regarding these provisions.

The Party Plan defines "military member" as "any member of the Virginia National Guard, or the United States Armed Forces, Merchant Marine, or Coast Guard, who is currently serving on active duty or who expects to be on active duty at the time of a particular mass meeting or convention." Art. II, para. 25.

The Plan makes two provisions for the participation of military members in its nominating process.

First, a military member who wishes to serve as a delegate to a convention representing the county or city in which he or she is registered may do so by following the same procedure as any other person in that city or county. The only difference is that a military member is certified as a delegate upon following those procedures and proving that his or her status as a military member will be certified as a delegate without being elected. See Art. VIII, Sec. H, para. 6.

This provision was adopted to ensure that military members could serve as delegates without violating Department of Defense regulations prohibiting military members from standing for election to party office.

In all respects other than the actual election, military members seeking to serve as delegates under this provision are treated like any other individual who seeks to become a delegate. Military members must comply with any pre-filing requirements and they count towards the limit on the number of delegates that may be elected by the unit.

A military member who did not follow the provisions of the call for his or her unit may not be credentialed as a delegate from that unit at the convention.

Second, the Plan provides for a form of absentee vote by military members who are unable to attend the convention. This provision applies only to conventions nominating candidates for public office. The provision is applicable to all 2016 district conventions because each will be nominating an elector to serve in the electoral college. Even though the convention has other elections (delegates and alternates to the national convention and members of the State Central Committee), the Plan authorizes these votes only in elections for public office, in this case, for elector.

Under this provision, a military member may file a declaration with the official committee chairman, in this case the Chairman of the Second District Committee, including a statement of intent and an affirmation that military orders preclude attending. Upon receipt of this declaration, the Chair provides a "Candidate Preference Ballot" to the military member who must return it by a deadline established in the convention call. These candidate preference ballots are tabulated and cast as a military delegation vote with the appropriate Republican Party Voting Strength. Art. VIII, Sec. H, para. 7.

A prior version of this provision required that one or more persons who could attend the convention in person would cast the votes of the military delegation pursuant to their ballots. However, that provision would have required that the individuals who served in this role would forfeit their own right to vote as delegates from their units. That provision was eliminated in the December 2015 amendments. Unfortunately, language reflecting that provision was included in a number of calls for 2016 conventions. The language in the Call for this convention should be ignored, as it is inoperative.

The Party Plan sets out requirements relating to the deadlines for both filing a declaration and returning a ballot under in the military delegation. Unfortunately, the call here did not reflect that deadline schedule. It set May 6 as the deadline for filing a declaration and May 13 as the deadline for returning a ballot. The Plan requires that the deadline for return of a ballot be at least 21 days prior to the convention.

In a separate provision, the Call sets the filing deadline for candidates seeking election at the convention as April 30, which is exactly 21 days before the convention.

Any candidate preference ballot received after April 30 could be subject to challenge. It would be up to the Convention itself to resolve any such challenge that might arise, considering the requirements of the Plan, the provisions of the Call, and the animating purpose of both, to allow for military members to participate in the nomination of candidates for public office.

Finally, the Call failed to include the correct weighted vote—3 delegate votes—assigned to these absentee military ballots. If the convention determines that these votes should be cast, that is the proper weighted vote based on the special formula for Republican Party Voting Strength when this provision applies.

In summary, there are two and only two special provisions relating to military members.

- A military member who followed the exact same procedures as any other qualified party member in response to a call issue by a unit committee was certified as a delegate without being “elected.” Any individual who qualified as a delegate under this provision would have been certified by a unit no later than April 27 pursuant to the requirements of section VII of the Call.
- A military member unable to attend the convention who filed a declaration with the chairman and returned a candidate preference ballot indicating his or her voting preference for the post of elector (and no other office) at least 21 days prior to the convention. (The Convention will have to determine whether candidate preference ballots returned consistent with the deadlines in the Call, but not the Party Plan should be cast).

There is no other provision allowing for a military member to participate in the convention. And, no individuals serve in a military delegation, the votes of the military members who return candidate preference ballots are cast on their behalf by a convention official.

This letter constitutes a ruling or interpretation under Article X of the State Party Plan and may be appealed to the Appeals Committee or the State Central Committee within thirty days of its posting on the RPV website.

Sincerely,



Chris Marston,
General Counsel