



Republican Party of Virginia

www.rpv.org

August 26, 2016

Paul Prados, Chairman
11th Congressional District Republican Committee

VIA e-mail

Dear Chairman Prados,

On May 23, I provided an interpretation of the Party Plan regarding contests and appeals at your request. That decision was posted on the website on June 10, 2016. Upon further reflection, I have determined that I erred in my analysis in response to the first question you posed.

You inquired whether “the Party Plan specifi[es] time limits, petition requirements, or specific formats” for Contests. In my response, I indicated that it did not. I based my conclusion on what I perceived to be a distinction in the treatment of contests and appeals under the Plan.

Upon reflection and further review, I now conclude that the Plan applies the same requirements to both contests and appeals. Article X, Section B, which carries the heading “Contests,” refers at different points to “all controversies and contests,” “appeals,” “All appeals,” “All Contests and Appeals,” “Contest or Appeal,” and “contest or appeal.” The various contexts in which these various references occur do not present a consistent distinction between a “contest” and an “appeal” for purposes of applying the various procedures described.¹

Because of the ambiguity in the Plan created by these varied references, I have reviewed past decisions and other materials that provide evidence of how these terms have been construed in the past.

In an opinion dated September 24, 2014, Patrick M. McSweeney, then serving as general counsel, noted that an appeal to a Unit Committee from a decision made at a mass meeting must meet the 30-day deadline set out in the Plan.

¹ In the first footnote in my May 23 letter, I note an example in paragraph 5 where the “appeal” must be read to mean “contest or appeal.”

Explanatory text provided with a Party Plan amendment to impose deadlines for the consideration of an appeal, which was considered by the State Central Committee at a September 2007 meeting, read “[w]hile the Party Plan sets clear deadlines for the filing of a contest or appeal, there is no such deadline for an appeal to be heard and a decision to be rendered.”

I have also made inquiry regarding what official committees have required before considering a contest in the recent past. While I am not certain that I have identified every case, in all of those of which I am aware, official committees have only entertained contests filed within the 30-day deadline and supported by a petition with the requisite number of signatures.

Finally, the logic of the scheme underlying Article X suggests that these procedural rules should apply to contests. Article X is animated by a desire to resolve substantial disputes raised in a timely fashion. If no deadline applied to filing a contest, actions of official committees could be revisited long after they were made with potentially broad-reaching impact on subsequent actions. Evidence might become unavailable and recollections of participants may no longer be fresh. Additionally, allowing a single individual to contest the action of an official committee without any indication that others agree that further consideration is warranted could potentially paralyze official committees dealing with repeated contests from a single dissatisfied member. To allow for a contest not made in writing and not made within thirty days or supported by a petition, but then impose all of these requirements on an appeal would be an odd outcome.

For the foregoing reasons, the ambiguity in the Party Plan, past decisions and documents, past practice, and the underlying policy of Article X, I have determined that the same time limits and petition requirements apply to contests as to appeals.

So that this determination may take the place of my initial letter, I include below my initial responses to your second and third inquiries, which I continue to believe I addressed correctly—

2. Does a Contest involving an election for party office at a District Convention need to be filed first with the District Committee?

Yes. A contest involving an election for party office at a district convention may only be considered by the relevant district committee. Paragraph 3 provides that “(e)ach District Committee shall decide all controversies and contests arising within its jurisdiction.” An election for party office at a district convention clearly arises within the jurisdiction (the congressional district) of the district committee.

3. May any party aggrieved by the resolution to the Contest then file an Appeal to the State Central Committee for final resolution?

Yes. “Persons deemed adversely affected by a decision of the District Committee shall have the right of appeal to the State Central Committee.” Art. X, Sec. B, para. 3. Although the language of the provision “persons deemed adversely affected” is not a model of clarity, it appears to include “any party aggrieved by the resolution to the Contest.” If the State Central Committee found that the language of the Plan does not include the appellant from a particular decision of a district committee, it could decline to hear the appeal, but it would be up to the State Central Committee to make that determination.

I apologize for any challenges created by my erroneous opinion on this issue.

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

Sincerely,

A handwritten signature in blue ink that reads "Chris". The signature is stylized and cursive.

Chris Marston,
General Counsel