



Republican Party of Virginia
www.rpv.org

January 11, 2024

Karen Angulo, Chairman
Appomattox County Republican Committee

VIA E-mail

Dear Chairman Angulo,

You requested my ruling or interpretation of the Party Plan relating to using a convention to nominate a candidate for a general election under a recently-effected statutory change.

The Code of Virginia has long vested in political parties the authority to determine the method of nominating its candidates for office. § 24.2-509. The Party Plan sets out the methods available to Republican committees in Article VIII—mass meetings, party canvasses, conventions, and primaries.

As you note in your request, the Code was recently amended to place restrictions on the method a political party selects in general elections. A bill introduced by Del. Dan Helmer in the General Assembly's first special session in 2021, HB 2020, was enacted as Ch. 474 of the Acts of Assembly (2021). It included a delayed effective date of January 1, 2024. As of that date, the Code added an explicit restriction to the method of nomination selected by a political party, as follows:

A method of nomination shall not be selected if such method will have the practical effect of excluding participation in the nominating process by qualified voters who are otherwise eligible to participate in the nominating process under that political party's rules but are unable to attend meetings because they are (i) a member of a uniformed service, as defined in § 24.2-452, on active duty; (ii) temporarily residing outside of the United States; (iii) a student attending a school or institution of higher education; (iv) a person with a disability; or (v) a person who has a communicable disease of public health threat as defined in § 32.1-48.06 or who may have come in contact with a person with such disease. § 24.2-509 (exceptions for special elections and nominations by committee excluded).

The question then is whether a particular method of nomination set out in our Party Plan “has the practical effect of excluding participation in the nominating process by qualified voters who are otherwise eligible to participate in the nominating process under [the Republican Party’s] rules but are unable to attend meetings” for any one of the five reasons enumerated in the statute—active duty military service, temporarily residing abroad, attending school, having a disability, or having a communicable disease that poses a public health threat.

In order to comply with the law, if we answer that question in the affirmative, we must choose a different method.

Article I sets out the rules for participation in all of our nominating processes. Nothing in Article I could possibly exclude every Virginia voter in one of the five statutory categories. As such, any meeting held as part of a nominating process would have the practical effect of excluding them if attendance at the meeting is a requirement.

Under the Party Plan, meeting attendance is a requirement for convention delegates with the exception of active-duty military voters, for whom a form of absentee voting is provided.

The Plan provides “‘Convention’ is defined in *Robert’s Rules of Order* subject to the provisions of the State Party Plan.” Art. II, para. 22.

Robert’s Rules of Order Newly Revised notes that a convention is a form of deliberative assembly. RONR (12th ed.) 1:14. Among the characteristics of a deliberative assembly is “the group meets in a single room or area or under equivalent conditions of opportunity for simultaneous aural communication among all participants.” *Id.* 1:1. These provisions are the basis of prohibiting absentee or proxy voting. Voting is limited to those present at the time of the vote. *Id.* 45:56. “Exceptions to this rule must be expressly stated in the bylaws.” *Id.*

The only exception to the rule in the Party Plan for absentee voting is for “Military Members,” effectively the same group specified in the statute. Art. II, para. 25., §24.2-509. Those provisions, detailed in Article VIII, section H, paragraphs 6-7, provide for Military Members who are certified as delegates to cast a “candidate preference ballot” ranking their preferences by submitting the ballot in advance of the convention to be counted with their unit delegation’s vote at the convention.

These provisions cover only one of the five reasons enumerated in the statute. No additional provisions may be created through bylaws adopted by a District Committee or any other type of rule other than an amendment to the Party Plan.

Robert’s Rules of Order Newly Revised includes an important rule for the interpretation of bylaws. “If the bylaws authorize certain things specifically, other things of the same class are thereby prohibited.” RONR (12th ed) 56:68. Taken together with the Party Plan’s order of precedence of rules (Party Plan, District or Unit Bylaws or Plan,

Robert's Rules), no District or Unit may adopt bylaws in conflict with the Party Plan. Art. VII, Sec. H. By authorizing Military Member absentee voting at conventions explicitly, the Plan prohibits absentee voting by any other class of voters. A District bylaw purporting to establish absentee voting by any other class of voters would necessarily conflict with the Party Plan and be void.

A convention as currently defined under the Plan would have the practical effect of excluding otherwise eligible voters who cannot attend the convention. As such, §24.2-509 prevents any committee from selecting it as a method of nomination.

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,

A handwritten signature in blue ink that reads "Chris". The signature is written in a cursive, flowing style.

Chris Marston,
General Counsel