

The ruling of the General Counsel dated January 21, 2015, was overturned upon appeal to the Appeals Committee on March 4, 2015.

**Republican Party of Virginia**  
**115 East Grace Street**  
**Richmond, Virginia 23219**

**Patrick M. McSweeney**  
**General Counsel**

January 21, 2015

**By electronic delivery**

Mr. Eric Zehr  
Chairman  
Campbell County Republican Committee  
*eric@americanhousewash.com*

Dear Mr. Zehr:

This is in response to your request for a ruling on the question of whether an organization known as the Independent Conservatives of Campbell County constitutes a political party for purposes of Article I, Section A(4) of the State Party Plan, which disqualifies an individual from participation in Republican nomination events when he or she has participated in the nominating process of a political party other than the Republican Party.

I draw your attention to an interpretation of the Party Plan that I provided to Andrew Nicholson, Chairman of the Clarke County Republican Committee, on January 18, 2015. I have attached a copy of that letter for your information.

Article I, Section A should be read as a whole. The purpose and intent of that section are to limit participation in Republican Party nominating events – whether convention, canvass, mass meeting or primary – to those who adhere to Republican principles. The effect is the prevention of the practice of “raiding” Republican nominating events by members of an opposition party, as well as by those who are not members of a political party, but who do not share Republican principles or who have supported a candidate or candidates in opposition to a Republican candidate or candidates.

The First Amendment to the U.S. Constitution guarantees to American the right to form associations with likeminded individuals and to exclude those who do not share the views and principles of that association. Article I, Section A serves to enforce the freedom of association of the members of the Republican Party of Virginia.

Your request refers to Article I, Section A(4), but I cannot properly respond without considering other provisions of that section of the Party Plan. All of those related provisions must be harmonized, if possible. Article I, Section A(2) bars an individual from participation in the nomination process or any other actions of the Republican Party of Virginia for four years if that individual publicly supports a candidate in opposition to a Republican nominee. This prohibition is a companion to the prohibition in Subsection A(4), which you cite and which prohibits an

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individual from participating in a Republican nominating event if he or she has participated in the nominating process of another political party within the last five years.

The Code of Virginia defines “party” and “political party.” Va. Code § 24.2-101. Each of those terms means

an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least 10 percent of the total vote cast for any statewide office filled in that election. The organization shall have a state central committee and an office of elected state chairman which shall have been continuously in existence for the six months preceding the filing of a nominee for an office.

I do not consider that definition controlling in the context here. The purpose of that statute is to establish an organization’s eligibility to have its nominees automatically placed on the official ballot, even if the organization’s initial nominee dies or withdraws before the election. All other candidates eligible to have their names on the ballot must meet petition requirements pursuant to Va. Code § 24.2-506. The statutory definition does not mean that a political organization that fails to satisfy that provision’s requirements is not a “political party” for other purposes. For example, the Republican Party of Virginia would continue to be considered a political party by the Republican National Committee even if RPV failed to meet the requirements of the definition in Va. Code § 24.2-101. Indeed, when the Democratic Party of Virginia failed to satisfy the requirements of the statutory definition as it existed in 1990-1991 by not nominating a candidate to run for the U.S. Senate in 1990, Democratic legislators, who then controlled both chambers of the General Assembly, amended the definition so that nominees of the Democratic Party would have automatic ballot access. The Democrat who served as Governor at that time signed the legislation.

The nominee of a political organization that does not satisfy the requirements of the statutory definition of “political party” nevertheless can run for election in opposition to the nominee of the Republican Party if the former nominee obtains the requisite number of petition signatures. Such a candidate would run for office in opposition to a Republican candidate in the same way that the Democratic Party candidate would be in opposition to the Republican candidate.

Based on the foregoing analysis, it is my conclusion that an individual who has participated in the nominating process of the Independent Conservatives of Campbell County within the last five years is prohibited from participation in the nominating process of the Republican Party of Virginia and any of its districts and units.

It is further my conclusion that an individual who has participated in the nominating process conducted by the Independent Conservatives of Campbell County has “publicly

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support[ed] a candidate in opposition to a Republican nominee” for purposes of Article I, Section A(2). Therefore, that individual is prohibited from participating in any actions of the Republican Party of Virginia and its districts and units for a period of four years.

Very truly yours,

/s/

Patrick M. McSweeney

Enclosure

cc: RPV Chairman  
RPV Executive Director