



LP PA Judicial Committee

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On July 22, 2023, the Judicial Committee of the Libertarian Party of Pennsylvania received a request from Gregory Deal, Executive Vice Chair of the Libertarian Party of Pennsylvania, and a voting member in good standing with the right to Advisory Opinion, regarding rights and responsibilities for nomination of candidates for public office. Mr. Deal's email presented a question to the Judicial Committee, seeking an advisory opinion rather than appealing a decision of the Executive Board. As this is an advisory opinion, nothing in this opinion should be interpreted as the Judicial Committee nullifying any decisions of the Executive Board.

Mr. Deal's full email states:

I am requesting an advisory opinion of the bylaws for clarification. I would like your opinion on the following:

1. Which body has the right/ responsibility to nominate candidates for public office (municipal, state representative etc...) in the absence of a local affiliate to nominate the individual?

2. Is it in order to call for a special meeting of said body to make the nomination?

I thank you for your time and effort in this matter. It will go a long way as to determining writing in both the Bylaws and the Policy Manual of the LPPA.

In Liberty,

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Gregory Deal

Executive Vice Chair

Libertarian Party of Pennsylvania

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Question 1: Nominations

The first question posed to the Judicial Committee is: Which body has the right/responsibility to nominate candidates for public office (municipal, state representative, etc...) in the absence of a local affiliate to nominate the individual?

The bylaws are silent about nominations except in Article X- Annual Convention, Section 4- Public Office Nominations (a), which states:

- (a) Defined as Public Office Nominations, The Libertarian Party of Pennsylvania and its recognized Affiliates shall have the sole authority to nominate candidates for Public Office within the Commonwealth of Pennsylvania under the Libertarian Party label.

This section states that the LPPA and its recognized affiliates shall have the sole authority to nominate candidates for Public Office within the Commonwealth of Pennsylvania under the Libertarian Party label. This explicitly gives the LPPA and its affiliates the right to nominate candidates for public office. What is not defined in this is what bodies within the LPPA and its affiliates have rights under different circumstances, to nominate candidates for different offices and the process of nominating those candidates.

Section 4 (b) further states:

- (b) The nominations and debate of candidates for Public Offices (i.e., candidates for public offices within Pennsylvania elections) shall adhere to the process defined by the Convention Standing Rules.

The Convention Standing Rules further state in Article XI- Nomination of Candidates for Public Office:

1. No candidate may be nominated for any office who is ineligible to serve in that office or who has not expressed a willingness to accept the nomination of the Party.
2. Nominees for any office shall be chosen by majority vote. Should no candidate obtain a majority on a ballot, then a new ballot shall be taken. After every second ballot, if no candidate has yet received a majority vote the candidate with the least number of votes shall be struck from subsequent ballots.
3. No candidate for public office at any level shall be nominated or endorsed who has not signed the statement as described under Article II Section 1 c of the Bylaws. (Note: this is referencing the old bylaw location. The new location aligns best with Article III, Section 1a.)

Outside of these citations, the nomination process is left silent in the bylaws. The convention standing rules do not provide any binding rules outside of the convention, so are irrelevant to this question. As the LPPA and its recognized affiliates have the right to nominate candidates, when an affiliate doesn't exist, this leaves the LPPA as the only organization with a right to nominate candidates. The bylaws do not offer any additional details regarding the Executive

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Board/Affiliate Council roles in the nomination of candidates. Article V- Board of Directors, Section 2- Executive Board (b) states:

- (b) The Executive Board's purpose is to handle the day-to-day business operations of the LPPA, provide leadership with regard to administrative matters, and dutifully execute the respective offices of the Executive Board, as required by these bylaws.

Section 2 (c) states:

- (c) The Executive Board shall be responsible for the following: management of the organization, control of all organization properties and funds, oversight and execution of all organization affairs, oversight of organizational Committees, oversight of organization Affiliates, presiding over Business Meetings, and adherence to these Bylaws, the Policy Manual, and any organization policies, rules, or resolutions.

Article V- Board of Directors, Section 7- Affiliate Council (d) states:

- (d) The Affiliate Council's purpose is to provide representation of members and affiliate organizations at the state-level, to maintain checks-and-balances on Executive Board and Executive Committee activities, and to provide a path for surfacing affiliate and local-level matters to the Executive Board for consideration and resolution." Sub-section E states, "The Affiliate Council shall be responsible for oversight of organizational Affiliates, oversight and execution of all cross-Affiliate affairs, presiding over Affiliate Council Meetings, and adherence to these bylaws and any organization policies, rules, or resolutions.

While analyzing the purposes and responsibilities of each group of the split board, the role of nominating candidates without an affiliate fall to the Executive Board. A nomination falls under "day-to-day business operations" in Section 2(b) and "oversight and execution of all organization affairs" in Section 2(c). Nothing described in Section 7(d) fits the description of a nomination better than the roles described for the Executive Board. A nomination, being a decision of the Executive Board, would be subject to review and veto by the Affiliate Council as well as appeals to the JC if bylaws and policies are not properly followed.

Further, because the Bylaws are otherwise silent, we may infer that historic precedent would apply whereby local nominations would remain the purview of affiliates whereas statewide nomination would remain the purview of the LPPA. Moreover, since the Affiliates operate under authority of the LPPA, we would further conclude that, localities without an Affiliate would defer to the LPPA for nominations at the local level.

This opinion is solely based on the interpretation of the bylaws and ignores anything that may or may not exist in the policy manual. The Executive Board has wide latitude to work within to implement a policy defining their process for nominating a candidate. It is recommended that the bylaws add a section that further defines the nomination process outside of conventions as well as which positions can be nominated by the Executive Board under different circumstances. The Judicial Committee recommends this include addressing circumstances when NOTA wins at a

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convention and there is no decision of the body to not run a candidate, a local affiliate not promptly meeting to follow their nomination process, and nominating candidates for local/state legislature in areas lacking an affiliate.

Question 2: Special Meetings

The second question asked is, “Is it in order to call for a special meeting of said body to make the nomination?”

Article IX of the bylaws lays out the requirements for special meetings. Article IX- Business Meetings, Section 3- Special Meetings (a) States:

- (a) Scheduled Special Meetings may be utilized to conduct business outside of a regularly scheduled meeting; wherein:
 - i. Purpose, topic, and scope of the meeting to be narrowly defined. Specifying all positions to be nominated in the call for meeting should meet this requirement.
 - ii. Advance notification of the meeting shall be provided, with a notification of no less than fifteen days.
 - iii. The Executive Board may hold a scheduled special meeting scheduled and called with agreement from $\frac{3}{4}$ of the Executive Committee (Executive Committee is defined as chair, vice chair, secretary, treasurer).

An emergency special meeting requires a narrow scope and limited to a single subject matter considered urgent. Article IX- Business Meetings, Section 3- Special Meetings (b) states:

- (b) Emergency Special Meeting may be utilized to conduct specific urgent business outside of a regularly, or existing, scheduled meeting; wherein:
 - i. The purpose, topic, and scope of the meeting shall be narrowly defined to a single subject matter which is considered to be urgent.
 - ii. The meeting agenda shall be set by the Executive Committee and outside of the defined agenda may, additionally, include only agenda items allowable by the Policy Manual.
 - iii. Advance notification of no less than twenty-four (24) hours shall be required unless a quorum of $\frac{2}{3}$ of the meeting body is available to attend sooner.
 - iv. An Emergency Special Meeting of the Executive Board requires a quorum of $\frac{2}{3}$ of the Executive Board present at the time of the meeting.

There are no restrictions in the bylaws on what topics can be discussed at a Scheduled Special Meeting. Any topic that falls within the jurisdiction of the Executive Board is in order. The above section states that day-to-day business is the jurisdiction of the Executive Board and that nominations are within the scope of day-to-day business. It then follows that a Scheduled Special Meeting can be called for the purpose of nominating candidates.

An Emergency Special Meeting has some slightly different criteria. The first is that an Emergency Special Meeting is defined to a single subject matter, which is considered urgent.

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This would imply that this provision can only be used for nominations on a tight deadline and not for nominating on a standard timeline. There is no restriction on the topics that an Emergency Special Meeting can be called to handle. As long as all requirements for an Emergency Special Meeting are met, an Emergency Special Meeting can be called for the purpose of nominating candidates.

Conclusions

1. The Executive Board has the right to nominate candidates in the absence of a local affiliate. This right to nominate would be subject to veto by the affiliate council and appeal to the JC if bylaws or policies are violated.
2. As they stand now the bylaws are deficient in clearly defining nomination of candidates, especially outside of convention. It is recommended bylaws committee examine adding language to better define and address this. Addressing the nomination of candidates in the bylaws is superior to leaving it up to a policy manual.
3. A scheduled special meeting of the Executive Board for the purpose of nominating candidates is in order. An Emergency Special Meeting, that meets all requirements for calling the Emergency Special Meeting, called for the purpose of nominating candidates, is in order.

The Judicial Committee expresses its appreciation to Mr. Deal for his inquiry regarding candidate nominations and the approved processes for such nominations. This inquiry has shed light on what the Judicial Committee perceives as significant bylaw deficiencies in this area. Thoughtful examinations of the new bylaws are crucial for identifying areas that should be referred to the appropriate committees, to be further deliberated upon by the convention delegates next year.

Respectfully submitted,

Judicial Committee

Libertarian Party of Pennsylvania